

[3rd April 1923]

His Excellency the Governor having certified, under proviso (a) to section 72-D (2) of the Government of India Act, in relation to the provision of Rs. 33.60 lakhs made in Demand No. XXXIV in the Schedule of Demands for the year 1923-24 under the head 'Agency,' that this expenditure is essential to the discharge of his responsibility for the administration of the Agency tracts, the said demand relating to a Reserved subject, the Government of Madras direct that the above provision be shown in the civil estimates under the above head as if it had been assented to by the Legislative Council.

E. S. LLOYD,

3rd April 1923. *Secy. to the Govt. of Madras, Finance Dept.*

III

THE MADRAS HINDU RELIGIOUS ENDOWMENTS BILL, 1922—cont.

The Council resumed the consideration of the Madras Hindu Religious Endowments Bill, 1922.

Clause 66.

Sub-clause (2).

(Amendment No. 227.)

Mr. M. SURYANARAYANA :—" Mr. President, the amendment that stands in my name reads as follows :—

After the words 'such notice' insert the words 'or such further time, as may be granted'.

"My object in moving this amendment, Sir, is to enable the Board to extend the time for payment of the money which the trustee is directed to pay under sub-clause (2) of clause 66. The sub-clause says :

Such trustee shall within three months of his receipt of such notice pay out of the funds of the math or temple concerned the amount so demanded to the President of the Board or Committee . . .

I know that in the subsequent portion of the same clause it is said that when the matter goes up before a court, it is open to the court to grant further time for such payment. But instead of the matter being placed before a court of justice and then the court granting further time, I think the Board may well be invested with jurisdiction to extend the time for payment of the money which a *math* or temple is called upon to pay."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I have no objection to accept the amendment, Sir, on behalf of the Government."

The amendment was put and carried.

Clause 66, as amended, was put, passed and added to the Bill.

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Clause 67.

New sub-clause after sub-clause (2).

(Amendment No. 228.)

Rai Bahadur N. GÓPALASWAMI AYYANGAR :—" Sir, I have given notice of an amendment which runs as follows :—

Add the following as sub-clause (3) :—

' (3) The power to make rules under this section shall be subject to the condition of previous publication.'

It was intended, Sir, that the rules to be framed under this clause should be published for criticism before being adopted, and I move this amendment merely to supply that omission."

The amendment was put and carried.

Clause 67, as amended, was put, passed and added to the Bill.

Clause 68.

Clause 68 was put, passed and added to the Bill.

Clause 69.

Sub-clause (1).

(Amendment No. 229.)

Mr. R. SRINIVASA AYYANGAR :—" Sir, I should like to formally move the following amendment standing in my name :—

(a) *Insert the following as item (a) :—*

' (a) removing a member of any Committee.'

(b) *Re-letter the existing items.*

" The Bill contains no provision enabling the Board or the committee to get a member of the committee removed in suitable cases, and it is with a view to fill up this omission that I move this amendment."

Rai Bahadur N. GÓPALASWAMI AYYANGAR :—" Mr. President, Act XX of 1863 did contain such a provision, while the present clause does not contain it. That is why, I take it, the hon. Member Mr. Srinivasa Ayyangar has thought it fit to move this amendment. But the conditions are dissimilar. Under Act XX of 1863 the committee members were appointed for life, whereas under the present Bill they have to be appointed only for five years. I may also point out to the hon. Member the analogy of members of local bodies. There is really no provision either in the District Municipalities Act, or in the Local Boards Act, for the removal by suit of a member of a municipal council or of a local board. The term being short, it was considered unnecessary to incorporate in the Bill any provision for removing a member of the committee by suit."

Mr. R. SRINIVASA AYYANGAR :—" I am inclined to think, Sir, that a period of five years is rather too long. If, in the meanwhile, a member misconducts himself, I should like to know if the committee and the Board are to be actually powerless in getting rid of that undesirable element. I

[Mr. R. Srinivasa Ayyangar]

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Clause 69—cont.

was merely anxious to strengthen the hands of the Board or the Government, as the case may be, by seeing that such a power was actually vested in the Board for getting rid of the undesirable members."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Mr. President, if a member of the committee becomes really obnoxious or becomes subject to disqualifications which would disentitle him to continue as member, then he will cease to be a member under another clause of the Bill. That seems sufficient."

Mr. R. SRINIVASA AYYANGAR:—"That argument, Sir, will only apply where a member of the committee brings himself within the disqualifications prescribed elsewhere; but it is possible to conceive of cases where a member may misconduct himself in such a manner as not to bring himself within the purview of that clause. It was with a view to guard against such cases also that I moved my amendment."

The amendment was put and lost.

Sub-clause (2).

(Amendment No. 230.)

11-15 a.m. Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I beg to move—

Between the words 'relief' and 'in respect of the administration' insert the words 'specified in sub-section (1) of this section'.

"My object in moving this amendment is to keep the remedy open, under sections 92 and 93 of the Civil Procedure Code and under rule 8 of order I of the First Schedule of the same Code, in respect of all matters which are not covered by the previous sub-clause. The previous sub-clause refers to certain kinds of relief, for instance, appointing or removing the trustee of a math or excepted temple, vesting any property in a trustee, declaring what proportion of the endowed property or of the interest thereon shall be allocated to any particular object of the endowment and granting such further or other relief as the nature of the case may require. There are cases under section 92 which are not covered by the previous sub-clause. There are cases under rule 8 of order I under which certain persons may join together, obtain the leave of the court and institute a suit for certain remedies. They are not at all covered by the previous sub-clause. Sub-clause (2) is very wide and very general, so as to exclude the operation of sections 92 and 93 and rule 8 of order I in all cases although the previous sub-clause is limited in scope. My point is that in those cases which are not covered by the previous sub-clause let the operation of the Civil Procedure Code and sections 92 and 93 and rule 8 of order I be in force so that they may have other remedies open to them if they choose to avail themselves of the provisions under those sections."

Rao Bahadur C. V. S. NARASIMHA RAJU:—"The real difficulty of this clause lies in sub-clause (2). Clause 3 of the Bill preserves the rights of the Advocate-General, and as sub-clause (2) stands, I do not think we have any quarrel. According to clause 2, the order is limited only to cases covered by clause 1, and when the Advocate-General wants to move a court regarding the management of an institution which right is reserved under clause 3, I believe he has no right to sue under sections 92 and 93 and rule 8 of order I. I believe this is a real difficulty."

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Clause 69—cont.

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Mr. President, Sir, referring first to the arguments advanced by my hon. friend, Mr. Narasimhacharlu, in favour of his amendment, I only wish to point out that the object which he aims at is diametrically opposed to that which the Government have aimed at in drafting this particular sub-clause. His object, as he explained to us, is where the relief claimed does not fall under any one of the items of sub-clause 1, sections 92 and 93 of the Civil Procedure Code should be operative. The policy that the Government have kept in view in framing this particular clause is that sub-clause 1 has been limited to such of the reliefs mentioned in section 92 of the Civil Procedure Code which are not already covered by the provisions contained in the rest of the Bill. The whole range of reliefs mentioned in section 92 of the Civil Procedure Code has been examined and such of them as can be compassed by applying the other provisions of the Bill, disciplinary or otherwise, have been left out and only those are retained which have not been covered by the provisions at the previous Act. Suits are therefore allowed only in cases of disciplinary jurisdiction of Committees and Boards and settlement of the various questions arising out of the administration of religious endowments which are in the jurisdiction of Boards and Committees under this Bill. It is only cases which are not covered by these provisions that will come under sub-clause 1. As my hon. friend, Mr. Narasimhacharlu, has not failed to point out whenever occasion has arisen that the Government have been repeatedly saying that their object in connexion with this Bill is to minimise litigation, this sub-clause (1) has really been framed so as to conform to that policy. Sub-clause 2 also has been framed in consonance with that policy. If we accept his amendment it would really mean that though we mention a certain number of reliefs as claimable under this sub-clause other reliefs can be pursued in a court of law under section 92 of the Civil Procedure Code. The only thing I wish to say is that this is the policy of this clause.

" As regards the point which the hon. Mr. Narasimha Raju has raised, I confess it is certainly a matter of considerable difficulty. Again, the policy is that, as far as possible, suits relating to religious endowments should lie under this particular clause of the Bill. We no doubt have no provision to say that we do not propose to interfere with such powers as the Advocate-General may possess under section 114 (2) of the Government of India Act. If in pursuing those reliefs he finds that he has not got a forum to apply to, I do not know whether that contingency will be considered as inconsistent with the policy of this Bill. What powers he may possess under section 114 (2) of the Government of India Act and how he will be able to pursue or exercise his own powers are matters which really depend upon the interpretation of this Bill and the interpretation of the powers he may have under section 114 (2) of the Government of India Act."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I am really puzzled by the answers which Mr. Gopalaswami Ayyangar has given. Apparently, the object of this Bill is to create as many puzzles as possible for the interpretation of the court. Here, we are undertaking a legislation, and if it is the object of my hon. friend to preserve the jurisdiction which the Advocate-General has under the Government of India Act and to empower him to act in conformity with the right which he has to interfere in the

[Mr. M. Ramachandra Rao Pantulu]

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Clause 69—cont.

administration of public charities that right ought to be preserved. What my hon. friend has really done is to enable him under the Civil Procedure Code to file scheme suits and to otherwise interfere with the administration of public charities. My hon. friend, as he cannot touch the Government of India Act section 114, ought to have repealed the really operating clauses of the Civil Procedure Code. What he has done is certainly not at all a desirable method of legislation. If it is the object of this Bill to shut out entirely the Advocate-General in regard to his jurisdiction over public charities, my hon. friend should realise that he cannot do so in virtue of section 114. Therefore, the best course is not at all to put in a clause like sub-clause (2) but to leave that matter alone entirely. I am afraid this method of legislation is likely to lead to considerable difficulty; and I should like to know what the Advocate-General thinks about these two provisions which are proposed to be included in this Bill.

"It is all very nice to say that litigation should be put an end to. When the Advocate-General has got specific powers under the Civil Procedure Code in respect of public charities, it seems to me that it is not at all wise to interfere with the jurisdiction which is conferred upon him and much less with the particular forum to which he can drive himself. I do not know where we are in this matter. I should like to know the Advocate-General's view as regards his exact powers under this legislation if it becomes law."

Mr. C. MADHAVAN NAYAR (Advocate-General):—"My hon. friend has drawn my attention to the discussion that is going on over this clause and asked me to state my views. Mr. President, I really am not concerned with the policy of the Bill or with what its framers had in view when they drew up this particular sub-clause. So far as the powers of the Advocate-General are concerned, it is really difficult for me now to expound to this House the onerous duties which are laid upon the Advocate-General under section 114 of the Government of India Act. The policy has been explained to the House by my hon. friend, Mr. Gopalaswami Ayyangar. With regard to how the Advocate-General will in future exercise his powers under section 114 of the Government of India Act, of course, I shall have to consider that when any particular case comes before me for consideration; and if I find that there is any difficulty I shall certainly bring it to the notice of the Government and bring forward an amendment to this sub-clause if necessary, in order to exercise my legitimate powers."

Rai Bahadur T. M. NARASIMHACHARLU:—"Good legislation is not to think about a difficulty when one actually arises, but rather to anticipate all probable difficulties and provide for them. Hence, in this sub-clause we ought to see whether it may in any way conflict with the powers of the Advocate-General under section 114 of the Government of India Act. I think, Sir, the learned Advocate-General should have thought about this, foreseen the difficulties and fore-warned himself.

"As regards the policy enunciated by Mr. Gopalaswami Ayyangar, I submit, Sir, that it is a very retrograde policy. In respect of the management of religious endowments only certain reliefs are given in the previous sub-clause. You admit that there may be other reliefs necessary for the proper management of the religious institutions; and yet you say 'we deprive you people of that remedy; no such suit shall be filed and sections 92 and 93

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Clause 69—cont.

of the Civil Procedure Code shall not apply.' I ask, Sir: is this a fair piece of legislation? Your policy may be to minimise litigation. As I already said, this is not minimising litigation; this is stifling justice and thus putting an end to the rights of parties and people to go before the courts to obtain redress in respect of matters not covered by the reliefs specified in the previous sub-clause. It is with that object, as I said, I have moved this amendment to insert the words 'specified in sub-section (1) of this section.' This means: for suits claiming any relief specified in sub-clause (1) this sub-clause shall not apply. In other matters there are other remedies open.

"It will be certainly overriding the provisions of the Government of India Act framed by Parliament to say that we have not at all interfered with the rights conferred by section 114 of the Government of India Act, and yet enact that no remedy is open in any court in the Madras Presidency to receive complaints and give such reliefs as may be necessary. To say at one breath that we have not interfered with the Act—that is the only way of escaping—and that we shall not entertain such suits is, I think, very unfair. Therefore, once more I say that unless this amendment is accepted, the Bill will be a retrograde piece of legislation."

The hon. the RAJA OF PANAGAL:—"I cannot understand what my hon. friend means by saying that unless his amendment is accepted the Bill will not be a satisfactory piece of legislation. I may say, Sir, that what is possible to do in this House has been done and nothing more can be done. We cannot interfere with section 114 of the Government of India Act. Under that section, it is possible for any party to obtain the consent of the Advocate-General to file a suit."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"What can the Advocate-General do in regard to public charities?"

The hon. the RAJA OF PANAGAL:—"So far as suits under sections 92 and 93 are concerned, the Advocate-General cannot exercise his powers. It is only to the extent that this House is able to interfere it has interfered. To one observation made by my hon. friend from Cuddapah, namely, that the object of this legislation is to stifle legal remedies I must take serious objection. There is nothing of the sort. The real object of the Bill is, not to stifle all legal remedies, but to minimise litigation."

The amendment was put to vote and lost.

Clause 69 was put, carried and added to the Bill.

Clause 70.

(Amendment No. 231.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I move—

After the words 'which may' insert the words 'subject to the provisions of section 64'.

"Clause 64 refers to clause 70. I think that it is desirable that clause 70 should also refer to clause 64. I formally move this amendment."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Though clause 64 refers to clause 70, in clause 70 it was thought unnecessary to refer to clause 60. Anyhow, there is no harm in accepting this amendment."

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Clause 70—cont.

The amendment was put and carried.

Clause 70, as amended, was put, carried and added to the Bill.

Clause 71.

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I shall move my amendment subject to your ruling whether it is permissible to do so; because this amendment would hold good only if clause 70 was not passed."

The hon. the RAJA OF PANAGAL :—" I rise to a point of order. We have passed clause 70 and the amendment of my hon. friend can be moved only if clause 70 has not been passed."

The hon. the DEPUTY PRESIDENT :—" I am indebted to you for your honestly enquiring whether you would be in order in moving your amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—" I am always honest, Sir" (laughter).

The amendment was ruled out of order.

(Amendment No. 232.)

Mr. C. MADHAVAN NAYAR (Advocate-General) :—" I move—

Omit the words 'at the commencement of this Act.'

"As already explained by me in moving some amendments in connexion with clause 65, the obvious reason for moving this amendment is to bring under the purview of this Bill schemes framed in suits instituted before the commencement of this Bill. I formally move the amendment."

The amendment was put and carried.

(Amendment No. 233.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Sir, I beg to move—

That the following proviso be added to clause 71 :—

'Provided, however, that nothing contained in this Act shall apply to a religious endowment which, at the commencement of this Act, is governed by a scheme settled by the Judicial Committee of the Privy Council.'

"Sir, I submit that religious institutions in respect of which the Judicial Committee of the Privy Council has framed schemes should in their very nature be of great importance in respect of the value of the endowments and their celebrity. Matters of great moment also should have been involved in the cases which went up to the Privy Council, as otherwise the decision of that body would not have been ordinarily invited. His Majesty in Council being the ultimate appellate authority for the Empire, any scheme framed by that body should command the greatest respect. The Courts in India, including the High Court, which are subordinate to the Privy Council, would have given various directions and passed various orders in order to give effect to their decision. Sir, the trustees whose position was assured under such a scheme would have launched costly and important schemes of improvement in pursuance of the powers vested in them and in the belief that a decree of His Majesty in Council would not be interfered with. To give powers, Sir,

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Clause 71—cont.

to quasi-judicial and quasi-executive bodies like the Board to abrogate even such schemes, and to subject trustees in such cases to Temple Committees is a violent and revolutionary change in the law governing the status of trustees.

“Sir, the question which the House should consider is whether the interests of the religious endowments governed by such schemes demand the application of this Bill. To take only one instance, Sir, the Tirumalai Tirupati and other *devasthanams* are now working under a scheme settled by their Lordships of the Judicial Committee of the Privy Council and under rules framed in pursuance thereof. I shall refer to a few rules for the information of the House :—

(1) The accounts of the *devasthanams* are audited by an auditor appointed not by the *vicharanakartha*, but by the District Court of Chittoor and the remuneration of the auditor is fixed by the district court and paid out of the *devasthanam* funds.

(2) The surplus income is invested only for the benefit of the temple and in the manner provided in the scheme.

(3) No jewels or other property of value can be sold without the sanction of the district court.

(4) Any person interested may apply to the district court with reference to the carrying out of the directions of the Privy Council scheme.

(5) Any person interested may from time to time apply to the High Court for any modification of the scheme that may appear to be necessary or convenient.

“These are the safeguards, Sir, and it will be noticed that the scheme and the rules governing the said institution are of such a character and so comprehensive that it is unnecessary to substitute for the existing machinery any other alternative mode of control such as is sought to be brought into operation by this Bill. A number of conflicting interests were reconciled and various divergent contentions set at rest by the judgment of their Lordships of the Judicial Committee and by virtue of the rules made in pursuance thereof. Not only would no advantage accrue from re-opening the questions so thoroughly thrashed out and so solemnly adjudicated upon, but any endeavour to do so would leave a loophole for a great deal of interference.

“Sir, if the rules framed by the district court are not stringent enough to prevent misappropriation, interested persons may get them altered by a petition to the High Court. And if, on the other hand, the scheme has to be modified, the High Court has the power to do so. Sir, when the scheme came into force, the income of the Tirupati temple was only about four lakhs, and it has steadily increased to about 14 to 15 lakhs in *faslis* 1330 and 1331. It cannot certainly be said that the scheme has failed. If all the safeguards provided for in the scheme are sufficient, what is the necessity for including these temples within the purview of this Bill? If the Bill is applied to this institution, Sir, it will have to pay about Rs. 40,000 or more per annum. The recurring payment of about Rs. 40,000 per annum from out of the funds of this institution is an uncalled-for burden and is one which is undoubtedly highly detrimental to the institution. I, therefore, submit that all the religious endowments governed by schemes settled by the highest judicial tribunal should be excluded from the operation of the Bill.

“One word more from a business point of view, and that is according to this Bill, something like 40 to 42 thousand rupees will have to be paid by the Tirupati temple. In the scheme of expenditure forecast by Mr. Chentsal Rao, we find that the Board and its establishment will cost annually Rs. 92,000. As explained above, the contribution from the Tirupati temple

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Clause 71—cont.

is 40 to 42 thousand rupees, which means that the Tirupati temple alone has to contribute something like 50 per cent of the cost of the whole establishment—that is, the Board and its establishment which are to be constituted to control all the religious endowments and temples and maths of the whole Presidency, are to be maintained principally from the income of one temple. Now, I ask, Sir, is it fair to take so much as 50 per cent of the income of that temple for the benefit of the whole Presidency? In view of these facts, I trust that the House will agree to exclude this temple from the operation of this Bill."

The hon. the RAJA OF PANAGAL :—" Mr. President, Sir, the amendment of my hon. friend, Mr. Namberumal Chettiyar, goes to the very root of the question. The amendment is diametrically opposed to the policy of the Government. In fact, the idea underlying the Bill is to confer on boards power to interfere with schemes already framed. The fact that the scheme was framed by the Judicial Committee of the Privy Council does not make any difference. If once the principle that the Legislature can interfere with schemes already framed by Courts of Law is conceded, it does not matter by what court these schemes were framed. It is not only in this instance, but wherever a new legislation is passed that legislation can override the principles laid down by the Judicial Committee of the Privy Council. My hon. friend has referred to the case of Tirupati temple and stated that in its case the scheme is framed by the Judicial Committee of the Privy Council, that the scheme framed is perfect, and that it is the result of a solemn adjudication. My only reply is that I do not believe in that statement. The scheme was framed in a case in which the respondent was not represented. We do not know what the scheme would have been if the other side had been represented at the final stage of the case. Sir, the question has been discussed at

11-45 a.m.

great length in the Select Committee, which came to the conclusion that the schemes already framed should not escape the attention of the Board. Wherever any interference is found necessary power is given to the Board to either cancel the scheme or modify it to that extent to which the Board thinks it is necessary. An appeal to a civil court is provided against any interference by the Board with any existing scheme. In these circumstances, Sir, I cannot accept the amendment."

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" The hon. the Minister made two observations. One was that even though the Judicial Committee of the Privy Council had decided, this local legislature could modify the decision. On this point I am sorry I am not competent to say whether this local legislature can override the decision of the highest judicial authority in the Empire."

The hon. the RAJA OF PANAGAL :—" May I know, Sir, from my hon. friend whether the principle laid down in the well-known 10 Allahabad case has not been interfered with by the law passed by this very Legislative Council?"

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Regarding the other point that was raised that this was an *ex parte* decree, allow me to say that in the course of their judgment the Judicial Committee of the Privy Council observe that the matter was fully discussed and that they had the benefit of Sir Robert Findlay's official experience."

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Clause 71—cont.

The hon. the RAJA OF PANAGAL :—" May I say that Sir Robert Findlay appeared for the appellant, that is the Mahant of Tirupati ? "

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" It must also be noted that subsequent to the framing of the scheme. . . "

The hon. the DEPUTY PRESIDENT :—" I do not know if all that is relevant."

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" The result of the case at the Madras High Court for modification of the scheme settled by the Privy Council, was that no modification was necessary as held by Justices Ayling and Sankara Nair, after six days' trial."

The amendment was put and lost.

Clause 71 was put and carried and added to the Bill.

Clause 72.

Sub-clause (1).

(Amendment No. 234.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—

For the word 'five' substitute the word 'ten'.

" My object is to enable the lease being granted by the trustee for a term not exceeding ten years instead of for five years as mentioned in the sub-clause. In some cases to get a good rent it will be necessary to give a lease for a term not exceeding ten years. If you limit the time to five years no man will come forward to take it up on a fair rent. But if you extend the term to ten years, he may give you a decent rent. The reason is he will have the property for ten years, so that if he gets nothing in a bad year he will be able to make it up in a good year. A period of ten years is allowed in several enactments and we have also noticed that this period is a very reasonable one. Besides, there is the further safeguard in sub-clause 2 which says :

The trustee of the math or temple or any person having interest may within such time as may be prescribed apply to the court for modifying or cancelling any order of a Board or committee sanctioning an exchange, sale, mortgage or lease under sub-section (1) and the order passed by the court on such application shall be final.

All that I say is, it is better to have an enabling provision which will meet the particular circumstance of a case and therefore I commend this amendment for the acceptance of the House."

The hon. the RAJA OF PANAGAL :—" Sir, I cannot accept the amendment. The period of five years has been arrived at after long consideration. In most cases the trustees appointed are elected trustees; and they do not continue to hold the appointment for more than five years. The subsequent trustee may think that the consideration is not adequate or that the lease itself is bad. In the case of maths, it is generally the elderly people that succeed and as such if we give a longer lease we shall be hampering the rights of the successor to the math. So it is with the trustees. In order that the hands of the successor may not be tied down, it was considered that a period of five years was quite sufficient. In these circumstances I do not think it will be wise to lengthen the period prescribed."

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Clause 72—cont.

Rai Bahadur T. M. NARASIMHACHARLU :—" I think otherwise, Sir."
The amendment was put and lost.

Sub-clause (2) and new sub-clause after it

(Amendment No. 235.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" The amendments that stand in my name are as follows :—

(a) *Substitute the following for sub-clause (2) :—*

'The trustee of the math or temple or any person having interest may, within one year of the date of the order of the Board or Committee under sub-section (1), apply to the court for modifying or cancelling such order.'

(b) *Insert the following as sub-clause (3) :—*

'The order of the Board or Committee under sub-section (1) when no application is made under sub-section (2) and the order of the court when such application is made shall be final.'

"It has been suggested to us, Sir, in connexion with this clause that we have not made sufficient provision for protecting the interests of the transferee who obtains an exchange, sale or mortgage of trust property under the sanction of the Board or the Committee. It was desired that we should fix a definite period within which such a transfer can be set aside by a court. In that case he would have clear notice and would not be prejudiced as he would be by an indefinite provision like the one that we find in sub-clause 2. Sub-clause 2 is a little indefinite in the sense that the time can be prescribed by the local Government and the transferee does not know what time may be prescribed and when the application may be made for setting aside the transfer. In order to make the position of the trustee one which would not be vague and indefinite this amendment has been suggested."

The amendments were put and carried.

(Amendment No. 236.)

Mr. K. PRABHAKARAN TAMPAN :—" I should like to move the amendment of Diwan Bahadur M. Krishnan Nayar, with the permission of the House."

The permission of the House having been granted, Mr. PRABHAKARAN TAMPAN moved :—

"Add the following as sub-clause (4) :—

'(4) Nothing in this section shall apply to renewals of kanam and other tenures in the district of Malabar which are for terms exceeding five years and liable to be renewed.'

"Sir, I am very much obliged to you and the House for having permitted me to move this amendment. It refers to the kanam and other tenures of Malabar. The law and the custom allow them. By their nature these tenures are renewable after 12 years. There are two or three kinds of tenures like that. Most of the land in Malabar is leased on a basis which endures for 12 years and is subject to renewal after this period. It is in the interests of the Uralans of temples and the thousands of tenants under them that I move this amendment. I hope it will be accepted."

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Clause 72—cont.

The hon. the RAJA OF PANAGAL :—“ Well, Sir, that is a matter which I am not prepared to decide at a moment's notice. If a question of that sort arises and if an amendment is found necessary, such an amendment may be brought forward later on.”

The amendment was put and lost.

Clause 72 as amended was put and carried and added to the Bill.

Clause 73.

12 noon. Clause 73 was put and passed and added to the Bill.

Clause 74.

Clause 74 was put and passed and added to the Bill.

Clause 75.

(Amendment No. 237.)

Rai Bahadur T. M. NARASIMHACHARLU :—“ Mr. President, Sir, I beg to move—

Between the words ‘ usage of a ’ and ‘ temple ’ insert the words ‘ math or ’ ”

The hon. the RAJA OF PANAGAL :—“ I accept the amendment.”

The amendment was put and carried.

(Amendment No. 238.)

Rai Bahadur T. M. NARASIMHACHARLU :—“ Sir, I move—

Between the words ‘ such ’ and ‘ temple ’ insert the words ‘ math or ’.”

The hon. the RAJA OF PANAGAL :—“ I accept the amendment.”

The amendment was put and carried.

Clause 75 as amended was put and passed and added to the Bill.

New clause after clause 75.

(Amendment No. 239.)

Diwan Bahadur T. N. SIVAGNANAM PILLAI :—“ Sir, I beg to move—

Add the following after clause 75 :—

‘ If any dispute arises in connexion with a temple regarding any usage or any right to receive honours, emoluments or perquisites or to perform any service in such temples the Board may and on the application of the trustee or of any of the parties to the dispute shall take cognizance of such dispute.

(2) The Board shall then serve a notice on the parties concerned that unless an application is made to it within such time not being less than one month as may be fixed in such notice the Board will proceed to hold an inquiry and give a decision.

[Mr. T. N. Sivagnanam Pillai]

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New clause after clause 75—cont.

- (3) The trustee of the temple or any person interested in the matter in dispute may within the time prescribed in the notice issued under sub-section 2, apply to the Board to refer the dispute to Commissioners specially appointed for the purpose.
- (4) The number of Commissioners shall be such as the Board may deem necessary.
- (5) If the parties agree, the persons nominated by them shall be appointed Commissioners. If they do not agree as to the nominations, the Board shall appoint such persons as Commissioners as it thinks fit.
- (6) The Commissioners shall submit their decision within such time as the Board may fix and the Board shall pass such a decision in terms of the award and such decision shall be final.

“Sir, the object of this amendment is to remove a difficulty that frequently arises in the present working of our *maths* and temples. I can give a concrete instance. The Jeerswami of a certain *matam* went to a certain temple and there instead of receiving the customary honours was denied that privilege. Then there was a criminal case. It went up to the District Magistrate and he referred the parties to the civil court. When they went to the civil courts, it was decided that the right of tying *parivattam* was a right to which no emoluments were attached and therefore the civil courts refused to interfere. The matter went up to the High Court also and there also the same objection was taken. A decree was given with regard to some other matters but not to the tying up of *parivattam*. To meet such cases and to provide a speedy remedy for them, I suggest this addition to the Bill.”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“Mr. President, Sir, there is no doubt that this amendment moved by my hon. friend, Mr. Sivagnanam Pillai, seeks to provide for a contingency which very often arises in connexion with temples. A good deal of litigation connected with the temples is over questions of the sort which are referred to in this amendment. The matter was discussed in the Select Committee, but they were unable to arrive at any unanimous or satisfactory decision. Now that my hon. friend, Mr. Sivagnanam Pillai, has brought forward this amendment, the Government would rather leave the decision on a question of this great importance to the House.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“Sir, I learn that the Government have decided to leave this matter to the decision of the House. My hon. friend, Mr. Gopalaswami Ayyangar, told us that this matter was discussed in the Select Committee and that it was found difficult to come to a unanimous decision. I only request this House to consider whether in the matter of providing a machinery like the one suggested in the amendment, we shall be justified in coming to a decision at once, when we have not sufficient time even to consider this amendment. The Select Committee sat from day to day for several days and examined a number of witnesses. It found it difficult to come to a decision with regard to this important question, and now even when the prescribed notice of the amendment is not given to us, we are asked to accept to the creation of a special machinery to dispose of

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[Mr. A. S. Krishna Rao Pantulu]

New clause after clause 75—cont.

questions regarding usages or rights to receive honours, emoluments, perquisites and so on. I think we shall not be doing our duty properly if we allow this amendment to go forward, especially in the light of the information given by the hon. Member, Mr. Gopalaswami Ayyangar, that this matter was considered by the Select Committee who did not come to any satisfactory conclusion.

"Another feature of this amendment is that we are giving powers to the Board to bring into existence another set of commissioners. The House is aware of the objections urged against the Board itself. We thought, and even now some of us think, that it is a machinery which probably will introduce complications which we cannot now foresee. This being so, we are now asked to give our assent to the creation of another set of commissioners for the purpose of deciding certain special questions. By doing so, I think we shall be creating more complications. I therefore think it is my duty to oppose this amendment."

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I have very great pleasure in supporting the amendment. My hon. friend, Mr. Krishna Rao, has not given any reason why we should not accept this amendment beyond complaining of want of time. The matter was considered by the Select Committee as stated on behalf of the Government, and probably it did not find it necessary to bring forward this matter. Mr. Sivagnanam Pillai, living in a district in which such disputes occur very often, has very rightly said that this amendment is necessary. Notice of this amendment was given on the 31st March. I do not know whether all of us are going through these amendments very carefully because, knowing beforehand the fate of most of them, most of us do not care to study them. Surely, if my hon. friend, Mr. Krishna Rao, wanted to go over these things, he would have been able to come to a decision. We know that in most of the Sri Vaishnava temples, difficulties of this sort often arise. The difficulty is not only of *dosais* or *vadais*, but even about the first *theertham*. In certain Saivite temples the question of *vibhuthi* also often crops up. So far as Vishnu temples are concerned, they give rise to many litigations which even take us to the Privy Council. Often the question to be decided will be whether a certain dispute is cognizable by the civil court or not. When several lakhs of rupees are spent and the matter goes up to the Privy Council, they say 'it is not a matter cognizable by the civil court'. Thus so much money is wasted. I therefore support the amendment."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I wish to say that I oppose the amendment not only on the ground of want of time but also on its merits. I only pointed out the special circumstances under which it was brought forward."

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, we did not think much about this amendment, because we knew the fate of several amendments. We thought that this might be one more failure. However, there is one difficulty about this amendment. I am in entire agreement with the views put forward by the hon. mover so far as such contentions as he referred to are concerned. But the method that is adopted here is somewhat open to question. Some commissioners under our Board of Commissioners are sought to be appointed here. I do not know why they are called commissioners instead of arbitrators. My point is : what is the procedure that will be followed by these

[Mr T. M. Narasimhacharlu]

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New clause after clause 75—cont.

commissioners—whether they will hold judicial inquiry, whether they will have power to take evidence and so on? Some say that arbitration means a decision arrived at arbitrarily. Are these commissioners to be judges, and are they to give their decision? There is a separate chapter in the Civil Procedure Code dealing with arbitration. Are these commissioners to arrive at decisions arbitrarily as they like? When we make a provision, it must be as perfect as possible. That is the only difficulty that I have in accepting this amendment. If only these commissioners are to be appointed with power to hold judicial inquiry, I submit the amendment may be accepted."

Rao Bahadur V. APPASWAMI VANDAYAR:—"Mr. President, Sir, I rise to support this amendment. A similar case has occurred recently in Mannargudi, that is, about the tying of *parivattam*. The Ekadasi festival was stopped and the Brahmotechavam was about to be stopped, though it is now going on. I think it is better to have a provision like this."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, it looks as if hon. Members are vying with each other to insert in this Bill provisions for solving all imaginary difficulties, all difficulties that have arisen hitherto and all difficulties that will arise in future. Looking at the provisions of this clause, which my hon. friend, Mr. Sivagnanam Pillai, has given notice of, I think that this is one of those clauses which must be characterized as leading to more difficulties than those which they were intended to solve. First of all, no procedure is prescribed as to how the commissioners are to act. Are they to take evidence? Are they to record their decision, or are they to be mere parties? Are they to do all these things as if it were a judicial trial? The number of commissioners is left entirely to the sweet will of the Board. It will really be a kind of subsidiary Board created for the purpose of deciding this matter. The number is left to the Board, and the persons nominated by them are to be appointed as commissioners; but if the parties do not agree, the Board will appoint such persons as commissioners as it thinks fit. The whole thing is left entirely to the Board; and the Board is to pass another decision in accordance with the decision of the commissioners. It seems to me, Sir, that it is far better to leave this matter to be settled in the ordinary way, and if after some experience we find that these things cannot be solved by the new machinery to be set up, it will be time enough then to undertake an amending legislation."

Diwan Bahadur T. N. SIVAGNAM PILLAI:—"I am sorry the proper aspect of the question has not been placed before the House. It is not my intention nor the intention of any person to oust the jurisdiction of civil courts. We see that the civil court has expressed its inability to decide such disputes on the ground that no emoluments have been attached to the *parivattam*. It is as a remedy to this defect that this amendment has been brought forward. I think the first clause may be amended slightly so as to make the matter plain. I will read it as amended:

If any dispute arises in connexion with a temple regarding any right to receive honours not enforceable in a civil court, the Board may and, on the application of the trustee or of any of the parties to the dispute, shall take cognizance of such dispute.

The other clauses remain as they are, except clause (6) where for the words—
shall pass such a decision in terms of the award

I wish to substitute the words—
shall pass their decision thereon.

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[Mr. T. N. Sivagnanam Pillai]

New clause after clause 75—cont.

So, I think, the clauses as subsequently amended will meet all the difficulties that have been pointed out in connexion with the working of commissioners under commissioners."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" May I point out, Sir, that these matters are not matters of a civil nature and in deciding them considerable difficulty will be felt by the commissioners that may be appointed by other commissioners."

The hon. the Deputy President read to the House the amendment as amended.

Rao Bahadur C. V. S. NARASIMHA RAJU :—" May I rise to a point of order? The hon. Mr. Sivagnanam Pillai has moved one amendment and now you, Sir, read another amendment. I do not know if any other gentleman has got any other amendment. The point of order is whether even the President has got the right to read an amendment which has not been formally moved."

The hon. the DEPUTY PRESIDENT :—" Mr. Sivagnanam Pillai has moved it, and subsequently he said, perhaps at the suggestion of the hon. the Law Member, that he would make these alterations. So, I am reading the amended amendment as moved by him again. There is nothing irregular in it. The House is fully aware of the amended amendment which was read out, and I am reading it for the final decision of the House. If you have any comments to make on that, you can make them."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I should like to point out to the House that it is now quite clear that the right to receive honours referred to in clause (1) is according to the hon. mover a right not enforceable in a civil court. According to the amended draft, it is quite clear that we should be getting into a serious difficulty. It might refer to religious usages and practices which it is not obviously the object of this Bill to control or alter. Therefore, on that ground, I would suggest that this question should not be subjected to legislation in this House. I thought, Sir, that the Bill was intended to control the secular affairs of religious institutions, and now we are getting into deep water by this amendment providing for the constitution of a Board of Commissioners for the purpose of deciding matters such as those relating to emoluments and honours not enforceable in a civil court. I should therefore think that it is certainly going beyond the objects of this legislation, and on that one ground alone I would suggest to my hon. friend not to press it. I can only point out that it is certainly going beyond the attempted scope of this legislation."

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—" Sir, as far as I can conceive it, the amendments suggested by the hon. Mr. Sivagnanam Pillai do not appear to be amendments which can be accepted by this House. There is the Board of Commissioners; there is the committee; there are trustees; and there are persons who are entitled according to the powers vested in them by this Bill to decide all questions which arise from time to time. There is the Board of Commissioners constituted under a particular chapter in this Bill, and they have their powers and duties defined. They are also vested with powers of hearing appeals and settling matters finally. They have also under one of the clauses powers of general supervision and control and

[Sir T. Desika Achariyar]

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New clause after clause 75—cont.

under clause 15 they have powers to make by-laws. So, my hon. friend will leave things alone without insisting on special provisions for the appointment of commissioners, for the holding of enquiries and for the settlement of disputes relating to honours and usages. The amendment would create endless troubles, and these are not legitimate matters for detailed legislation in a Bill like this."

The motion as amended was put and lost.

12-30 p.m. A poll was demanded and the House divided thus:—

Ayes.

- | | |
|--|---|
| 1. Diwan Fahadur T. Sivagnanam Pillai. | 5. Mr. S. Somasundaram Pillai. |
| 2. Mr. A. Ramaswami Mudaliyar. | 6. " A. Tangavelu Nayagar. |
| 3. Rao Bahadur V. Appaswami Vandayar. | 7. " C. V. Venkataramana Ayyangar. |
| 4. " T. Balaji Rao Nayudu. | 8. Rao Bahadur T. Namberumal Chettiyar. |

Noes.

- | | |
|---|---|
| 1. Rao Sahib T. C. Tangavelu Pillai. | 13. Mr. T. Somasundara Mudaliyar. |
| 2. Rao Bahadur T. A. Kamalinga Chettiyar. | 14. Dr. P. Subbarayan. |
| 3. Mr. W. Vijayaraghava Mudaliyar. | 15. Rao Bahadur C. Venkataranga Reddi. |
| 4. " J. Kuppuswami. | 16. Diwan Fahadur M. Ramachandra Rao Pantulu. |
| 5. " B. Muniswami Nayudu. | 17. Rao Bahadur A. S. Krishna Rao Pantulu. |
| 6. " M. Narayanaswami Reddi. | 18. " C. V. S. Narasimha Raju. |
| 7. Rao Bahadur C. Natesa Mudaliyar. | 19. Mr. S. Muttumanikkachari. |
| 8. Mr. V. P. Pakkiriswami Pillai. | 20. Rai Bahadur T. M. Narasimbacharlu. |
| 9. " P. T. Rajan. | 21. Diwan Bahadur Sir T. Desika Achariyar. |
| 10. " W. P. A. Saundarapandiya Nadar. | 22. Mr. R. Srinivasa Ayyangar. |
| 11. " E. K. Shanmukham Chettiyar. | 23. " T. Sivasankaram Pillai. |
| 12. " K. Sitarama Reddi. | |

Eight voted *for* and 23 *against*. The amendment was lost.

Clause 76.

Clause 76 was put and passed and added to the Bill.

Clause 77.

(Amendment No. 240.)

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I beg to move to—

Omit this clause and re-number the subsequent clauses.

"Clause 77 reads—

(1) Notwithstanding anything contained in the first or second schedule to the Madras Court Fees Amendment Act, 1922, the proper fees for the documents described in columns 1 and 2 of Schedule II shall be the fees indicated in column 3 thereof.

(2) The provisions of the Madras Court Fees Amendment Act, 1922, shall otherwise, so far as may be, apply to the documents mentioned in Schedule II."

"I submit, Sir, that this clause is quite unnecessary, and it lays a burden on the people who have some religious disputes to settle. In the original Bill which was introduced in this House, there was no such provision. In the Select Committee this was introduced and no cogent or satisfactory reasons

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[Mr. T. M. Narasimhacharlu]

Clause 77—cont.

are assigned for introducing this provision. It will be seen from the previous provisions that all temples have to give 3 per cent and all excepted temples and maths have to contribute $1\frac{1}{2}$ per cent for the maintenance of the commissioners and other officers and servants created under this Act. The object of the Government by this measure is to minimize litigation. No doubt it is a good and legitimate object. But if this is the object, I cannot see why this section is introduced for the benefit of the Government to levy special court fees. We have very recently raised the court fees under the Act we passed last year, and I fail to see why in this Act we should try to get some more profit for the Government. What is the Government to do in this case? The commissioners are maintained out of the funds which are collected from the maths and temples. The commissioners and the officers are maintained out of the funds, and, as it was pointed out by my hon. friend, Mr. Namberumal Chettiyar, from one temple, the Tirupati temple alone, they will get Rs. 42,000 a year and there are many other temples in this Presidency which will be obliged to contribute. Why should we at all benefit the Government, I ask? What do the Government do in return? The commissioners decide everything; the powers of the court have been taken away mostly, and I ask with what object are we, the maths and temples, to contribute this extraordinarily heavy amount which is mentioned in the schedule. Under Schedule II, appeal to the Board or application to court against an order of suspension, dismissal or removal by the committee of a trustee must be accompanied by a fee of Rs. 10. Have we ever seen an application paying such a heavy sum as Rs. 10? Then, an application to court by a trustee or any person having interest to modify or correct a scheme settled by a Board should pay a fee of Rs. 50, while appeal by any office-holder or servant against an order of punishment by a trustee should pay Rs. 2. When a man who is aggrieved by any order of suspension wants to appeal—the right of appeal is his birthright—he has to pay Rs. 2. Again, Sir, the fee leviable on applications to court by the trustee to recover the amount from the person in possession who has failed to perform the charity or service, etc., is the *ad valorem* fee which will be enormous. It will be observed, Sir, that in no case the fee is below Rs. 2. I ask, Sir, what does the Government give in return? Does the Government contribute a pie towards the cost of maintaining the commissioners and the host of officers? I want to know for what reasons we should benefit the Government. The commissioners appoint, dismiss or otherwise deal with the trustees and for that they are paid out of the temple funds. I submit that this is a heart-rending provision which has been introduced by the Select Committee, and they deserve none of our thanks for it. I move therefore for the deletion of this clause."

MR. M. SURYANARAYANA :—"I have given notice of a similar amendment, Sir. In addition to what has been submitted by my hon. friend, Mr. Narasimhacharlu, in favour of the deletion of the clause and of Schedule II attached to the Bill, I submit that the whole schedule resolves itself into two portions: that which relates to appeal to the Board or to the committees, and that which relates to application or suit before a court of justice. In regard to the first class, I cannot understand why there should be any court fee at all. It has been submitted by Mr. Narasimhacharlu already that from one temple alone, the Tirupati temple, you will get a sum of Rs. 42,000, and it has

[Mr. M. Suryanarayana]

[3rd April 1923]

Clause 77—cont.

been worked out in 1876 or 1877 that the expenditure for the Board of Commissioners will be something like Rs. 50,000. Therefore all the expenditure that the temples will have to meet is that for the salaries of the members of the Board and their establishment and that will be almost met from the contributions received from one temple alone, and there are hundreds of other temples and maths over which also the levy of 3 or $1\frac{1}{2}$ per cent is imposed."

The hon. the RAJA OF PANAGAL :—" May I know how the hon. Member from Vizagapatam arrives at the conclusion that the expenditure of the Board and its establishment might be met from the contributions of one math or from one temple alone ? "

Mr. M. SURYANARAYANA :—" It has been mentioned that what we will realize from the Tirupati temple alone will amount to Rs. 42,000."

The hon. the RAJA OF PANAGAL :—" Is the amount of Rs. 42,000 payable to the Board or partly to the Board and partly to the various committees ? "

Mr. M. SURYANARAYANA :—" The Boards and committees will no doubt have to share the amount. But the committees are not paid."

The hon. the RAJA OF PANAGAL :—" But the estimate of the expenditure of the Board was given at Rs. 50,000 and if Rs. 21,000 out of Rs. 42,000 goes to the Board, where is the rest of the amount to come from ? "

Mr. M. SURYANARAYANA :—" What I would say is that in addition to the Tirupati temple we have many other temples, rich pagodas and maths, which also have to contribute."

The hon. the RAJA OF PANAGAL :—" I think I heard the hon. Member say that the income from one temple alone will be sufficient to meet the expenditure on account of the maintenance of the Board."

Mr. M. SURYANARAYANA :—" I said that from one temple alone a sum of Rs. 42,000 would be got and as estimated some years ago the probable expenditure of the Board would be Rs. 50,000. If that is so, almost all the amount required may be realized from the incomes from one temple."

The hon. the RAJA OF PANAGAL :—" I have pointed out, Sir, that the amount of Rs. 42,000 does not go entirely to the Board."

Mr. M. SURYANARAYANA :—" I know it is so. When so much money is got by way of contributions, I cannot understand why there should be any court fee fixed in respect of any application to the Board. I can quite understand if the Bill had stated that a certain amount of money should go in cash to the Board or to the committee for the purpose of defraying the ordinary expenditure like the sending of notices to the parties concerned, the publication of notices in the gazette, the beat of tom-tom and other initial expenditure that has to be incurred. It is quite possible that the Chief Minister may consider that all these ought not to be given out of the temple funds but should be paid by the parties. If that is so, why not provision be made for payment in cash ?

" The next point that I would mention is the court fees in so far as applications to the courts of justice are concerned. Take, for instance, the court fees prescribed under clause 51 (2). The fee leviable on applications to court by a trustee or any person having interest to modify or correct a scheme settled by a Board, is Rs. 50. Under the Bill as it is, maths

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[Mr. M. Suryanarayana]

Clause 77—cont.

whose gross value is Rs. 500 come under the management of the Board. Supposing in respect of a math or a temple whose gross value is Rs. 600 a scheme is prepared and the party wants to get it modified, is it just to say in such a case that he should pay Rs. 50? Then take the case of a suit under clause 69, suit by a committee having jurisdiction over a math or a temple for the purpose of appointing or removing a trustee or vesting any property in a trustee. In respect of this suit also a fee of Rs. 50 is laid down. Supposing there is a temple whose gross annual income is Rs. 500, is it right to ask the payment of Rs. 50 by way of court fees? It seems to me to be inequitable, and therefore I submit the whole provision with regard to the court fees ought to be deleted. If, for instance, under the Court Fees Act itself we do not find sufficient provisions in respect of applications such as are contemplated by the Bill, and in case a Bill to amend the Court Fees Act is brought forward, the attention of the House will be specially directed to that particular matter, and we can say whether a particular court fee that is fixed in respect of a particular application is legitimate or not and whether it will or will not fall heavily upon the people."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I wish to say only one word, Sir, as to why the Chief Minister should be anxious to fill the coffers of the Government. I have always been saying, with due deference to the Ministers, that they seem to be a little weak as against the Executive Councillors. Of the Ministers, two have got liberally from the Government, one for the University and the other for the promotion of industrial companies, etc. I do not see why the Chief Minister, without getting any money from the Government for the administration of the endowments—the Government are paying money for the Christian churches—wants to pay the Government by way of increased court fees."

The hon. the RAJA OF PANAGAL :—"Sir, my hon. friend from Coimbatore has, I am afraid, ill-judged the Minister. The Minister is not without hopes of getting some contribution from the Government. He is on the move for that end."

Mr. C. V. VENKATARAMANA AYYANGAR :—"Then I will well-judge him, Sir. If I ill-judged him in his past action, in his future action, as suggested, I shall well-judge him."

The hon. the RAJA OF PANAGAL :—"As to the question raised by my hon. friends from Vizagapatam and Cuddapah, they seem to forget that the object of levying stamp duty is two-fold, one to obtain revenue, and the other to place a check upon reckless litigation. Secondly, they seem to forget that the Government have after all, to devote some of their valuable time in looking after the constitution of the Board and the committees, and also deciding several questions which will go before them. So, their time is spent and, as such, a proportion of this amount goes to the Government, and there is nothing iniquitous about it. Thirdly, my friend has calculated on the basis of $1\frac{1}{2}$ per cent being levied in every case. One and a half per cent is the maximum, and it does not mean that in every case $1\frac{1}{2}$ per cent would be levied. If we get the contribution I have referred to, I am not without hopes that the amount leviable from the endowments can be reduced. In these circumstances, I do not think any good purpose will be served by accepting my hon. friend's amendment."

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Clause 77—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, will you allow me to say a word on this subject? I have also given notice of a similar amendment, and I want to speak on this amendment, as I cannot make another speech again."

The hon. the DEPUTY PRESIDENT :—" First the hon. mover will reply, and then it may be considered."

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I am not at all hopeful of the Government giving any money by way of contribution; and even if the Government give any such contribution, I would certainly advise the temples and maths not to accept it. That means that the Government will put its finger in every little thing and will say 'We give the money and therefore we shall have control.' That is why I say that we neither want their money nor their control. That is my attitude. And then, where is any guarantee for such contribution? There is no such provision here in this Bill to the effect that the Government must or will contribute anything. I think these are all pious wishes and pious hopes which may make our mouths water but will never yield any substantial fruit. Again, Sir, the hon. the Minister has asked, 'Does not the Government spend sometime over these matters? Why should they do it gratis?' I never thought that in these matters the Government were doing the work with hopes of getting some consideration in return for the time they took over it. It is the duty of the Government. If the Government think that it is their duty to protect these temples from malversation and mismanagement, and if on account of that duty which is imposed upon them they step in and enact this legislation, I submit I cannot understand how it can be said that the Government do it with the hope of getting some return for the labour and time that they bestow upon it. Thirdly, I submit, the whole object of the Bill is to minimize the trouble of the court and to vest all the duties in the Board and the committees, which duties they perform and are paid for by means of the contributions from the temples and maths. In such a case, I fail to see why the Government should get anything at all. I am not at all convinced that the hon. the Minister has taken a wise step in putting in this clause."

Mr. T. SIVASANKARAM PILLAI :—" Sir, may I rise to a point of order? There is another amendment, amendment No. 642, which goes with the present one."

The hon. the DEPUTY PRESIDENT :—" We are at present discussing amendment No. 635, and when that other amendment is reached, the matter may be considered."

The motion was then put to the House and declared lost.

Diwan Bahadur M. Ramachandra Rao Pantulu demanded a poll, which was taken with the following result :—

Ayes.

- | | |
|--|--|
| 1. Mr. A. Tangavelu Nayagar. | 6. Mr. M. Suryanarayana. |
| 2. " V. C. Vellingiri Gounder. | 7. Rai Bahadur T. M. Narasimhaacharlu. |
| 3. Diwan Bahadur M. Ramachandra Rao Pantulu. | 8. Mr. R. Srinivas Ayyangar. |
| 4. Rao Bahadur A. S. Krishna Rao Pantulu. | 9. " A. Ranganatha Mudaliyar. |
| 5. Mr. C. V. Venkataramana Ayyangar. | 10. " T. Sivasankaram Pillai. |

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Clause 77—cont.

Noes.

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|---|---|
| 1. The hon. Khan Bahadur Sir Muhammad Habib-ul-lah Sahib Bahadur. | 18. Mr. J. Kuppuswami. |
| 2. " the Raja of Panagal. | 19. " B. Muniswami Nayudu. |
| 3. " Rai Bahadur K. Venkatarreddi Nayudu. | 20. " M. Narayanaswami Reddi. |
| 4. " Rao Bahadur A. P. Patro. | 21. Rao Bahadur C. Natesa Mudaliyar. |
| 5. " Mr. C. P. Ramaswami Ayyar. | 22. Mr. V. P. Pakkiriswami Pillai. |
| 6. Mr. E. S. Lloyd. | 23. " K. Sarabha Reddi. |
| 7. " A. Y. G. Campbell. | 24. " W. P. A. Saundarapandiya Nadar. |
| 8. Rai Bahadur N. Gopalaswami Ayyangar. | 25. " R. K. Shanmukham Chettiyar. |
| 9. Mr. C. Madhavan Nayar. | 26. " K. Sitarama Reddi. |
| 10. Diwan Bahadur T. N. Sivagnanam Pillai. | 27. " T. Somasundaram Mudaliyar. |
| 11. Mr. E. Periyannayagam. | 28. " S. Somasundaram Pillai. |
| 12. Rao Sahib T. C. Tangavelu Pillai. | 29. " S. Muttumanikkaachari. |
| 13. Mr. A. Ramaswami Mudaliyar. | 30. Muhammad Abdur-Kahim Khan Sahib Bahadur. |
| 14. Rao Bahadur P. C. Ethirajulu Nayudu. | 31. Khan Bahadur Muhammad Sadulla Badsha Sahib Bahadur. |
| 15. Sir P. Tyagaraya Chettiyar. | 32. Muhammad Usman Sahib Bahadur. |
| 16. Rao Bahadur T. Balaji Rao Nayudu. | 33. Rao Sahib M. C. Madurai Pillai. |
| 17. Mr. W. Vijayaraghava Mudaliyar. | 34. Rao Sahib P. Venkatarangayya. |

Ten voted *for* the motion and 34 *against*; the motion was lost.

Clause 77 was then put to the House, passed and added to the Bill.

Clause 78.

Clause 78 was put to the House, passed and added to the Bill.

New clause after clause 78.

(Amendment No. 241.)

The hon. the RAJA OF PANAGAL :—" Before the House proceeds to consider the next clause, I beg to move, with your permission Sir, the following amendment :—

(a) *Insert the following as clause 79 :—*

' 79 (1) If any dispute arises as to whether a math or temple is one to which this Act applies or as to whether a temple is an excepted temple, such dispute shall be decided by the Board.

(2) A trustee affected by a decision under sub-section (1) may within one year apply to the court to modify or set aside such decision, but, subject to the result of such application, the order of the Board shall be final.'

(b) *Re-number the existing clause 79 as 80.*

" Sir, there may be any number of cases where disputes of the sort referred to in this amendment may arise. In such cases there must be some authority to decide the disputes. We have in the first instance invested the Board with the power of deciding the disputes, but if in any case the party affected is not satisfied with the decision of the Board, it would be open to such party, within the prescribed time, to appeal to a court of law."

The new clause after clause 78 was put, passed and added to the Bill.

Clause 79.

Clause 79 was then put to the House, passed and added to the Bill.

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New clause after clause 79.

(Amendment No. 242.)

1 p.m. Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I beg to move—

Add the following as clause 80 :—

'80. Nothing in this Act contained shall prevent any person interested in a religious endowment who feels aggrieved by any act done or order passed by the Presidents and Commissioners of the Board or any of them, or by the President, Vice-President and members of the committee or any or some of them, or by the trustee of a religious endowment, in respect of that endowment for which act or order no appeal or other remedy is provided in this Act, from applying to the court for redress, and the court shall, on such application being made, have full power to grant such redress as the justice and the circumstances of the case may require. The order of the court in such a case shall be final.

"Sir, it will be seen that the Board of Commissioners, the Committees and the Trustees have got a number of functions to perform and duties to discharge in the course of the administration of the several temples and maths entrusted to their charge. The Board of Commissioners have got ample powers of superintendence under clause 14. They can ask any math or temple to give accounts they can make any order as regards the budget and they can enter into details of expenditure connected with them. No doubt, in certain cases the Bill provides for appeals and applications. But it may be easily conceived that there are hundreds of administrative orders and acts which are generally done and ought to be done by the commissioners, the committee or the trustee which will interfere with the rights and privileges of certain persons interested in a temple or math. My point is this: when we are giving so much power to these bodies, is it not proper that they should not be left to do things arbitrarily? If any person feels aggrieved by any act or order passed by them, he should have some remedy, and such a remedy ought to be provided in the Bill itself. The remedy that I suggest is an application to the court. To co-operate with the Government I say that there shall be no appeal against the order of the court. I minimize litigation by making the order of the court final. I wish to submit to the House that a similar provision is found in the Insolvency Act enabling a person aggrieved to apply to the court for getting redress against the acts or orders of the Official Receiver in the mufassal. No appeals are provided against the acts or orders of the Official Receiver, but a special provision exists and that is that for any act done or any order passed by the Official Receiver an application shall lie to the court for redress. This is my precedent for suggesting a similar provision in this Bill. The hon. Minister himself said that this was an experiment, and my submission is that in this experiment let us not leave everything to chance. My submission is that my amendment is not going against the current or the policy of the Bill. I move this amendment simply to smoothen the working of the Bill, and I wish that no man should feel that his right has been unnecessarily curtailed without any remedy whatsoever"

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New clause after clause 79—cont.

The hon. the RAJA OF PANAGAL :—“ Sir, I am afraid the acceptance of my hon. friend's amendment will frustrate the very object of this Bill. As I have already stated one of the chief objects of the Bill is to minimize litigation in the ordinary courts. The question as to in what cases an appeal should be provided to the courts has been discussed at length in the Select Committee and they have arrived at certain conclusions which have been given effect to in the several clauses. If we accept this amendment, it would mean that we should have to provide for an appeal to the court against each and every act of the Board of Commissioners or the Committees or the Trustees. In these circumstances it will be very unwise on the part of the Government to accept this amendment.”

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—“ Sir, I am very glad to see that my hon. friend, Mr. Narasimhachari, has been telling us that he wants to minimize litigation. At the same time he wants that a provision should be made enabling a person aggrieved to apply to the court against any act done or order passed by the Board of Commissioners, or the Committee or the Trustee. If we make a provision as contemplated in the amendment, I am afraid that all the good that is intended to be achieved by this Bill will be completely frustrated. The main object of this Bill is to see that litigation is minimized and that the charity funds are utilized for proper purposes. But if this amendment is accepted the entire object of the Bill will be frustrated and there will be no end to litigation. For these reasons I beg to oppose the amendment.”

Rai Bahadur T. M. NARASIMHACHARLU :—“ The old theme of minimizing litigation has been brought up again as an excuse for not accepting my amendment. The hon. Minister is very fond of minimizing litigation, but I am very anxious to preserve the rights and privileges of parties who feel that they are aggrieved. So, if any compromise is arrived at between these two, that is, if too much litigation is avoided without at the same time sacrificing the rights and privileges of parties, I shall be very glad to consent to it. I submit that the parties whose rights are curtailed should be enabled to apply to the court to get their wrongs redressed. As it is, we have provided for appeals only in very few cases, cases of punishments and so on. In their every day transaction, the Board of Commissioners, the Committee or the Trustee will do hundreds of acts, and if no check is provided in the Bill, they will be tempted to exercise their power arbitrarily and also partially. Therefore I say that this check should be provided in the Bill. My hon. friend, the Minister for Local Self-Government, says that by incorporating this provision in the bill litigation will increase. I have already given a precedent for enacting such a provision. In the Insolvency Act, the Imperial Legislature has introduced a similar provision and I wish to ask the hon. Minister whether litigation has increased thereby. The Official Receivers manage large estates—though estates of insolvents, they are sometimes very big—and any person who feels aggrieved by the acts done or orders passed by the Official Receivers may apply to the court for redress. I wish to know whether that provision has been abused by the public. Has not that section on the other hand provided a safeguard against the Official Receiver arbitrarily exercising his powers? Let the Government make inquiries about that section in the Insolvency Act and

[Mr. T. M. Narasimhacharlu]

[3rd April 1923]

New clause after clause 79—cont.

find out whether it has been abused or whether it has on the other hand proved beneficial to the parties concerned. That provision has undoubtedly proved to be very beneficial and I therefore submit that a similar provision should find place in the present Bill also. In the absence of any such provision the Board of Commissioners, the Committee and the Trustee, in whom are vested very wide powers, are apt to exercise them most arbitrarily."

The hon. the RAJA OF PANAGAI :—" I am glad that my hon. friend, Mr. Narasimhacharlu, has conceded that too much litigation should be avoided, but his theory of avoidance of too much litigation is altogether inconsistent with the amendment that he proposes. My hon. friend says that anybody who feels aggrieved by the acts done or orders passed by the Board of Commissioners, or the Committee, or the Trustee should apply to the court to have his wrong redressed. I submit, Sir, that in all human affairs anything done by one man will directly or indirectly have something to do with others. In such a case they may feel aggrieved and they will according to this amendment have the opportunity of going to courts. That, Sir, is not quite consistent with the principle of avoiding too much litigation. I submit, Sir, that it will afford ample opportunity for litigation."

The amendment was put and lost.

SCHEDULE I.

Part I.

(Amendment No. 243.)

Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" Sir, I beg to move—

Add the following as item (h) :—

'(h) is trustee of an endowment for a service or kattalai of an annual value of fifty rupees either founded by him or by the ancestors of his family.'

"The qualifications of electors are already given in the Bill and I submit, Sir, that it would be better if what I propose is added to the list."

The hon. the RAJA OF PANAGAI :—" It will indeed be very difficult to find out who is a kattalaidar and who is not. If we accept this amendment, it will land us in great difficulties. Under these circumstances, I cannot accept the amendment."

Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" I can assure the hon. Minister, Sir, that it is quite possible to find out who is a kattalaidar and who is not."

The amendment was put and lost.

(Amendment No. 244.)

Mr. R. SRINIVASA AYYANGAR :—" Mr. President, the amendment standing in my name reads as follows :—

1-15 p.m.

Add at the end of item (g) the word 'or' and insert the following as item (h) :—

'(h) is a graduate of any Indian University or a person getting a salary or a pension of not less than Rs. 30 per mensem'.

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[Mr. R. Srinivasa Ayyangar]

Schedule I—cont.

“Sir, Part I of Schedule I sets out a list of persons entitled or qualified to be registered as electors. I am anxious to extend that list in order to bring within its compass the kind of persons mentioned in my amendment.”

The hon. the RAJA OF PANAGAL :—“Sir, my hon. friend does not state what he means by a salary of Rs. 30. Is it from the Government, or is it from private individuals? As it is, it might be that a person might at one time have been a shop assistant and might be getting a pension of Rs. 30 per mensem. It is very difficult in such cases to give them a franchise. I cannot accept the amendment.”

MR. R. SRINIVASA AYYANGAR :—“Sir, a person getting a salary of Rs. 30 per mensem is liable to pay a municipal tax, no matter whether he gets his pay from the Government or from any private individual. The greater part of the reply of the hon. the Minister was directed to the latter portion of my amendment, and the hon. the Minister never said a word about the graduates of an Indian University.”

The hon. the RAJA OF PANAGAL :—“I do not know, Sir, if, according to my hon. friend, the graduates will be more spiritually inclined than others, and I really wonder why he should insist on graduates being given special franchise. As a matter of fact, even the local boards do not enfranchise graduates, and in the case of religious institutions why graduates should be preferred is a wonder to me.”

The amendment was put and lost.

Schedule I, Part I, was then put, passed and added to the Bill.

Part II.

(Amendment No. 245.)

MR. E. PERIYANAYAGAM :—“I may be permitted, Sir, to move the following amendment standing in the name of the Raja of Ramnad :—

For item (b) substitute the following :—

‘(b) has been adjudged to be of unsound mind by a competent court, or’.

“It is merely a verbal amendment, Sir.”

The hon. the RAJA OF PANAGAL :—“I accept the amendment.”

The amendment was put and carried.

Schedule I, Part II, as amended, was then put, passed and added to the Bill

SCHEDULE II.

Entry against 47 (3).

(Amendment No. 246.)

MR. C. MAIHAVAN NAYAR (Advocate-General) :—“I beg to move, Sir, that—

As against section 47 (3) Rs. 25 may be substituted for Rs. 10.

“Government consider that the fee mentioned there, viz., Rs. 10, is too low and so they suggest that Rs. 25 may be substituted for it. I may say

[Mr. C. Madhavan Nayar]

[3rd April 1923]

Schedule II—cont.

this in support of my amendment that under the Court Fees Act, really speaking, a fee of Rs. 50 might be levied; a *via media* is suggested by putting Rs. 25 here."

Mr. R. SRINIVASA AYYANGAR :—"Mr. President, I have given notice of an amendment, viz., that the figure '5' may be substituted for the figure '10'. The hon. the Advocate-General presented the case from the Government point of view and stated that the Government were inclined to think that the fee of Rs. 10 was too low and that, therefore, it was that he was anxious to raise it to Rs. 25. From the people's point of view, or from the point of view of those who feel themselves aggrieved, I am led to think, Sir, that Rs. 10 is too much and therefore I am for having only Rs. 5. I oppose the amendment."

The amendment was put and carried.

Entry against 51 (2).

(Amendment No. 247.)

Mr. R. SRINIVASA AYYANGAR :—"I do not move the first portion of the amendment, Sir, but move only the latter part of it, viz.—

For the figure '50' substitute the figure '25'.

I just move it, Sir, without any speech."

The hon. the RAJA OF PANAGAL :—"I oppose it without any speech, Sir."

The amendment was put and lost.

Entry against 69.

(Amendment No. 248.)

Mr. R. SRINIVASA AYYANGAR :—"I formally move the following amendment, Sir:—

For the figure '50' substitute the figure '25'."

The hon. the RAJA OF PANAGAL :—"Then I must formally oppose it, Sir."

The amendment was put and lost.

Schedule II, as amended, was put and carried.

SCHEDULE III.

(Amendment No. 249.)

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—"In the absence of Mr. P. T. Rajan, I beg to move the following amendment, Sir, with your permission:—

For the words 'not being less than two years nor more than three years' substitute the words 'not being later than three years'.

"My only object in moving this amendment, Sir, is this. As drafted in the Bill, the Government are allowed to have from two to three years, whereas, according to the amendment, a maximum of three years is fixed while the minimum of two years is taken away. It is really more in the interest of bringing the Act into force earlier than what is intended in the Bill that I move this amendment."

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Schedule III—cont.

The hon. the RAJA OF PANAGAL :—" Sir, I have no objection to accept the amendment."

The amendment was put and carried.

Schedule III as amended was put and passed and added to the Bill.

The House adjourned at 1-30 p.m. for lunch to meet again at 3 p.m.

The House re-assembled after lunch at 3 p.m.

Mr. M. SURYANARAYANA :—" Sir, before the business of the House is commenced, I beg to bring to your notice and the notice of the House a small omission. You will remember that when the consideration of clause 10 was taken up, I wanted to move amendment No. 116 on the agenda in regard to which, with the permission of the House, the consideration was deferred until amendment No. 122 was disposed of. That was duly seconded and the motion was put and carried. Consideration of amendment No. 122 was then taken up and in due course was disposed of. But consideration of amendment No. 116 was not placed before the House at all."

The hon. the DEPUTY PRESIDENT :—" I am so sorry that the hon. Member had slept over it. Evidently, it was the amendment of the hon. Member, and he ought to have been alert. We have passed a long long way off from amendment No. 116. But, if there is anything important in it—I mean if there is anything which would affect the Bill—I hope Government will bring in a consequential amendment."

Mr. M. SURYANARAYANA :—" It is not a question of my sleeping over it, Sir. I very much desire that there should be something on record with regard to that. There is difference between something appearing on record and not appearing."

CONSEQUENTIAL AMENDMENTS.

Clause 13.

Sub-clause (b).

(Amendment No. 1.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Mr. President, the first consequential amendment that I have to move relates to clause 13 (b). I beg to move—

Between the words 'such' and 'servants' insert the words 'officers and'.

" Sir, in clause 13 (a) an amendment was carried to insert the words 'officers and' after the words 'of its'. My amendment is consequential on the above amendment."

The amendment was put and carried.

(Amendment No. 2.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, there is another amendment to sub-clause (b) of clause 13 and it is this :

Between the words 'shall' and 'appoint' insert the words 'have the power to'.

[Mr. N. Gopalaswami Ayyangar]

[3rd April 1923]

"Sir, in the course of the discussion of this clause the point was raised whether the word 'shall' should be permitted to govern the two words 'appoint' and 'transfer,' and Government gave an undertaking that the point would be considered in moving the consequential amendments. It has been decided that the difficulty that has been felt by some of the hon. Members could be got over by inserting the words 'have the power to' before the word 'appoint'. If this amendment is carried, the sub-clause will read as follows :

(b) The President of the Board shall *have the power to* appoint and transfer such officers and servants and may fine, reduce, suspend, remove or dismiss them, etc."

The motion was put and carried.

Clause 13 as amended was next put and carried and added to the Bill.

Mr. M. SURYANARAYANA :—"Mr. President, may I submit that these consequential amendments have not been circulated to us? We do not know what they are."

Clause 22.

Sub-clause (3).

(Amendment No. 3.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Mr. President, I next move an amendment to sub-clause (3) of clause 22. It runs as follows :

Omit the sentences which appear after the words 'from three consecutive meetings' and insert the following as sub-clause (4) :—

"When a person ceases to be a member under clause (f) of sub-section (3), the President of the Committee shall report the fact to the committee at its next meeting and also intimate the same in writing to such person. If such person applies for restoration within one month of the receipt by him of such intimation from the President, the committee may, at the meeting next after the receipt of such application, restore him to his office of member of the committee ;

Provided that a member of a committee shall not be so restored more than thrice during his term of office."

"I believe it was my hon. friend, Mr. Srinivasa Ayyangar, of Cuddalore that was responsible for the addition of the sentence :

The President shall report this fact to the committee at its next meeting and also intimate the same in writing to the said member.

That sentence is, I think, inconveniently placed at the end of item (f) in sub-clause (3) and the provisos which follow are really provisos to that particular item (f) and this sentence comes in between the two. It has been thought better to take out the sentences which follow the present item (f) including the proviso and insert them in a new sub-clause (4) as moved by me."

The amendment was put and carried.

Clause 22 as amended was then put and carried and added to the Bill.

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Clause 26.

Sub-clause (1).

(Amendment No. 4.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, I beg to move—
Substitute the following for clause 26, sub-clause (1) :—

' On the occurrence of a vacancy in the office of a member of a Committee, a new member shall, subject to the provisions of section 18, be elected in the same manner as his predecessor was elected.'

" The above amendment is consequential on the decision of the House to make all the members of the Committee elected. The present sub-clause implies that there is a nominated element also on the Committee. That implication is proposed to be removed by the substitution of the above words. Section 18 relates to the appointment by Government of all the members of a Committee on its first constitution."

The amendment was put to the House and carried.

Clause 26 as amended was then put and carried and added to the Bill.

Clause 29.

Sub-clause (1).

(Amendment No. 5.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, I move—
That in sub-clause (1) of clause 29, between the words ' its ' and ' servants ' the words ' officers and ' be inserted.

" It is merely to bring the language of clause 29 into line with the language of clause 13 that I move this amendment."

The amendment was put and carried.

Sub-clause (2).

(Amendment No. 6.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, I beg to move—
That between the words ' shall ' and ' appoint ' the words ' have the power to ' be inserted."

The amendment was put and carried.

(Amendment No. 7.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, I beg to move—
That between the words ' such ' and ' servants ' the words ' officers and ' be inserted."

The amendment was put and carried.

(Amendment No. 8.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, I beg to move—
Add at the end of sub-clause (2) the words ' or other sufficient cause '.

" The Council carried an amendment to insert the words ' or other sufficient cause ' at the end of clause 13 (b) the language of which is practically the same as the language of sub-clause (2) of clause 29. Therefore it is desirable to insert the same words here."

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Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I wish to oppose this amendment. So far as this amendment is concerned it is not possible by any stretch of imagination to contend that it is a consequential amendment. Sir, you very properly ruled on the suggestion of Mr. M. Suryanarayana that it was not possible to reopen a clause once passed even though the amendment was not formally placed before the House. In this case, it will be found that the words proposed to be added are for giving power to the committee to punish its servants. As the clause stands at present, it reads :

Subject to such control as the Board may impose, the president of the committee shall have the power to appoint and transfer such servants and may fine, reduce, suspend, remove or dismiss them for breach of rules or discipline, for carelessness, unfitness, neglect of duty or misconduct.

"The cases where the committee can punish have been specified: the powers of the committee are defined and restricted. But it is now proposed by this amendment to make their power wider and more vague. All that is stated by the mover, Mr. Gopalaswami Ayyangar, is that while dealing with the powers of the Board in clause 13, similar words have been used. I think that this is not by itself sufficient justification for the addition of the words 'or other sufficient cause' in the case of the committee; because it will be remembered that in the case of the Board—though introduced by the Select Committee where there was any amount of discussion—you appoint very highly paid officers and the president is to be a barrister, pleader or a man of judicial experience. Moreover many restrictions have been provided in the Bill in the exercise of this power even in case of other sufficient cause. There is no meaning in saying, simply because you gave this power to the Board, you should also give it to the committee. It is not a consequential amendment and it is not fair that it should be brought forward as a consequential amendment."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Government are really restricted to move only verbal alterations in the Bill. I take 3-15 p.m. it, Sir, that the expression 'consequential alterations' means changes which are really needed, alterations of the language and even of the substance, in order to bring matters into conformity with the amendments which have been passed by the Council. Where the liability to punishment in respect of one set of servants is made to depend upon a particular set of circumstances, and when those circumstances are those about which the Council is very particular they have necessarily to be repeated in similar sections of the Bill. The latter part of this section has been brought into conformity with the wishes of the Council."

The amendment was put and carried.

Clause 20, as amended, was put, carried and added to the Bill.

Clauses 39 to 51 and 53.

(Amendment No. 9.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

Re-number these as follows :—

39 as 41	44 as 46	49 as 51
40 as 42	45 as 47	50 as 52
41 as 43	46 as 48	51 as 53
42 as 44	47 as 49	53 as 54
43 as 45	48 as 50	

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[Mr. N. Gopalaswami Ayyangar]

"Sir, this is purely a mechanical amendment. It, however, depends upon the passing of an amendment which is more substantial. It is proposed, Sir, to transfer the present clauses 52 and 54 which occur in the chapter headed 'Temples' to the chapter headed 'Religious endowments in general'. Clause 52 relates to the appointment and punishment of office-holders and servants in temples, and the House will remember that my hon. friend, Mr. Narasimhacharlu, drew our attention to the fact that there was no provision relating to the appointment and punishment of office-holders and servants in 'excepted temples'. That is proposed to be set right by the amendment which will be moved later on. When it is set right it will apply to both the 'excepted temples' and 'non-excepted temples.'

"Clause 54 refers to cases of endowments which are charges upon property and that is a matter which is found in both the 'excepted' and 'non-excepted temples'. An amendment has already been carried by the Council on the motion of Mr. Somasundara Madaliyar which reads thus:—

The provisions of this chapter except section 54 shall not apply to excepted temples or the trustees thereof.

By transferring clause 54 to the chapter headed 'Religious Endowments in general', the retention of the words 'except section 54' would become unnecessary. I shall move later on that the words 'except section 54' be deleted from the new clause 45 (old clause 43). As a result of the re-numbering of clause 52 as clause 39 and clause 54 as clause 40, it will become necessary to re-number the other clauses as indicated in this particular amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I think the proper course for my hon. friend would be to move those substantial amendments which he referred to, namely, that the two clauses 52 and 54 should be transferred to other chapters. Unless they have been moved and carried, there is no good of moving this amendment."

Clause 52.

(Amendment No. 10.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"I beg to move—

In the present clause 52, sub-clause (2) between the words 'servant' and 'punished' insert the words 'of a temple other than an excepted temple'."

The amendment was put to vote and carried.

(Amendment No. 11.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"I beg to move—

In new clause 39 (old clause 52), sub-clause (3), between the words 'servant' and 'may' insert the words 'of a temple other than an excepted temple'."

The amendment was put and carried.

(Amendment No. 12.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"I beg to move—

Insert the following as sub-clause (4) of clause 52:—

'(4) Any office-holder or servant of an excepted temple punished by a trustee under sub-section (1) may within such time as may be prescribed appeal to the Board whose decision shall be final'."

[3rd April 1923]

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, under sub-clause (4) which it is now proposed to be introduced, no doubt 'excepted' temples are brought in ; but there are certain temples which are not 'excepted' temples and for which there are no committees. In these temples if trustees punish their servants, which is the appellate authority ? Therefore, it will be seen that there are temples for which there are no committees ; but they are not at the same time 'excepted' temples. If a trustee of a temple punishes or dismisses his servant, what is the remedy open to him to file an appeal ? "

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"If there is such a temple after the coming into force of this Act, any right he may have under the existing law will not be taken away by this Act."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I beg to oppose this amendment. This really introduces a new matter with reference to 'excepted' temples. Hon. Members will notice that according to Chapter VI of the Bill the jurisdiction of the Board regarding maths and 'excepted' temples should be exercised as lightly as possible. My hon. friend is introducing a new system of appeal in reference to the trustees and the servants of those trustees. That is entirely a new matter and it cannot be accepted."

The motion was put and carried.

(Amendment No. 13.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

That the present clause 52 be re-numbered as clause 39."

The motion was put and carried.

The clause as re-numbered was put, carried and added to the Bill.

Clause 54.

(Amendment No. 14.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

That the present clause 54 be re-numbered as clause 40."

The motion was put and carried.

The clause as re-numbered was put, carried, and added to the Bill.

Clauses 39 to 51 and 53.

(Amendment No. 9.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

Re-number these as follows :—

' 39 as 41	44 as 46	49 as 51
40 as 42	45 as 47	50 as 52
41 as 43	46 as 48	51 as 53
42 as 44	47 as 49	53 as 54' "
43 as 45	48 as 50	

The amendment was put to vote and carried.

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The clauses were, as re-numbered, put, carried and added to the Bill.

New clause 45 (old clause 43).

(Amendment No. 15.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

Omit the words and figure 'except section 54'."

The amendment was put and carried.

New clause 47 (old clause 45).

(Amendment No. 16.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

*Insert the following words at the beginning of sub-clause (1) :—
'subject to the provisions of sub-section (4)'."*

"This is to remove the apparent inconsistency between the sub-clauses."

The motion was put and carried.

Clause 46.

(Amendment No. 17.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

For the words 'or its President' substitute the words 'or the President of such Board or Committee.'

"This amendment is really to make the meaning clear."

The motion was put and carried.

Clause 47.

(Amendment No. 18.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

*For the words 'or its President' in sub-clause (1), substitute the words
'or the President of such Board or Committee'."*

The amendment was put and carried.

Clause 59.

(Amendment No. 19.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

*In sub-clause (2) after the words 'such endowments' insert the words
'such person shall be a person having interest and'."*

"This is an amendment of which notice has been given by an hon. Member, but it was not moved. In order to make the meaning clear I think it is necessary to move it."

The amendment was put and carried.

Clause 59, as amended, was put, carried and added to the Bill.

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Clause 63.

(Amendment No. 20.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" I beg to move—

In sub-clause (1) for the words ' and setting apart . . . endowment substitute the words ' and after setting apart a sufficient sum for the repair and renovation of the buildings connected with the math or temple or the endowments attached thereto '.

" This amendment is intended to make the clause a little more definite than what it is."

The amendment was put and carried.

Clause 63, as amended, was put, carried and added to the Bill.

Clause 66.

(Amendment No. 21.)

3-30 p.m.

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" I beg to move the following amendment :—

In sub-clause (2) for the words ' or such further time as may be granted ' substitute the words ' or within such further time as may be granted by the Board or Committee. '

" This is a consequential amendment on the amendment carried at the instance of Mr. Suryanarayana."

The amendment was put and carried, and the clause as amended was put and added to the Bill.

New clause after clause 77.

(Amendment No. 22.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" I move for the insertion of the following new clause as clause 78 :—

' 78. The President of a Board or Committee may grant copies of the proceedings and records of the Board or Committee, as the case may be, on payment of such fees and subject to such conditions as the Board may, by general or special order, determine. Copies shall be certified by the President of the Board or Committee concerned in the manner provided in section 76 of the Indian Evidence Act, 1872.'

" We have in clause 35 a provision for the grant of copies of the register of endowments. On the motion of Mr. Balaji Rao Nayudu a similar sub-clause was inserted as sub-clause 5 to the new clause 52. There are proceedings and records of all kinds connected with the Board and committees and it will be necessary for people to apply for copies of such proceedings and records. Government consider that it would be best to insert in the miscellaneous chapter a separate section giving power to the Board or the Committee to grant such copies."

The amendment was put and carried, and the new clause was added to the Bill.

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(Amendment No. 23.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Next, Sir, as a consequence of the passing of this clause 78, I move—

To omit sub-clause (4) of clause 35, and sub-clause (5) of new clause 52 (old clause 50)."

The motion was put and carried, and the omissions were made.

(Amendment No. 24.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I move—

Re-number clauses 78, 79 and 80 as passed by the Council as 79, 80 and 81 respectively."

The motion was put and carried.

Schedule II.

(Amendment No. 25.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I move—

- (1) *For the figures '47 (3)' in column 1 substitute the figures '49 (3)'.*
- (2) *For the figures '51 (2)' in column 1 substitute the figures '53 (2)'.*
- (3) *For the figures '52 (2)' in column 1 substitute the figures '39 (2)'.*
- (4) *For the figures '52 (3)' in column 1 substitute the figures '39 (3)'.*
- (5) *For the figures '54' in column 1 substitute the figure '40'.*
- (6) *Insert the following as new items :—*

RS.

- (a) '59 (4)—appeal to the Board by an office holder or servant of an excepted temple ...

2

- (b) Section 80—application to modify or set aside the decision of the Board under sub-section (1)

The fee leviable on a plaint under article 17, schedule 2 of the Madras Court Fees Amendment Act, 1922.

- (7) *In column 2 of this schedule make the following alterations :—*

- (a) *Against new section 40 (old section 53) for the words 'who has failed . . . service, etc.' substitute the words 'or by the persons in possession from the person responsible in law'.*
- (b) *Against section 63 (1) between the words 'trustee' and 'or' insert the word 'committee'.*
- (c) *Against section 63 (3) between the words 'trustee' and 'or' insert the word 'committee'."*

The motion was put and carried.

Schedule II, as amended, was put, carried and added to the Bill.

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Schedule III.

(Amendment No. 23.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—" I move—

For ' section 78 ' substitute ' section 79 . '

The motion was put and carried.

Schedule III, as amended, was put and carried and added to the Bill.

Preamble.

The preamble was then put and carried, and added to the Bill.

The hon. the RAJA OF PANAGAL:—" Mr. President, Sir, it is a matter of no small gratification to me to be able to stand before this House this afternoon to present the Hindu Religious Endowments Bill for its final reading. Sir, the law which it is the object of this Bill to lay down has been for a long time a desideratum. During the last nearly half a century, many of our eminent men — men of enlightenment: men, some of whom, at all events, belonged to the school of orthodoxy — were making strenuous attempts to place on the Statute Book a piece of legislation which would secure better management of the religious endowments. Unfortunately, Sir, they, one and all, failed in their attempts. They failed not because of any shortcomings on their part, but because of the circumstances under which they had to introduce the various Bills. Sir, they had to work under a different constitution. At present the constitution has been changed, and if the present Legislative Council did not legislate on this subject, I am afraid, Sir, it would be charged with remissness. In one of his early speeches, Lord Willingdon, our Governor, announced that one of the Bills that would be introduced in the first Reformed Council would be the Hindu Religious Endowments Bill of Madras. In accordance with that announcement, I constituted a committee last year and after the committee deliberated and made proposals, a draft Bill was introduced towards the end of last year. Many of the vested interests began to feel anxious about the Bill. They raised a great deal of agitation and the poisonous gases that were raised by this agitation would have asphyxiated the judgment of this Council had it not been for the antidote of discrimination on the part of hon. Members (hear, hear). Sir, in spite of this agitation, we persevered. Many of the clauses were objected to both in the Select Committee stage and in the later stage of the Second Reading, and the criticisms were all carefully considered and met as far as possible. Sir, now that the Bill has been introduced and presented in an agreeable form to the House, I am sure the House will pass the Final Reading unanimously.

" Sir, in this connexion I cannot help making a reference to the help that I have received from the hon. the Law Member, my hon. Colleague, Mr. C. P. Ramaswami Ayyar, both in his capacity as Advocate-General and later on as Law Member. His help to me, Sir, has been very valuable. Nor can I omit to refer to the valuable service of the new Advocate-General. Ever since he was appointed Advocate-General, he has considerably helped me in piloting this Bill. One more gentleman to whom I cannot avoid making reference is my hon. friend behind me, Rai Bahadur N. Gopalaswami Ayyangar (hear, hear and cheers). A heart less stout than his would have collapsed in the struggle (hear, hear). He did not care for the curses

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hurled against him (hear, hear). He did not mind the language that was used against him. The press, at all events one section of it, was against him. The maths, were helped by those who were interested in allowing the management of the temples to continue as at present. With all that, Mr. Gopalaswami Ayyangar was dutiful; he discharged his duties admirably well. Nor can I omit referring to my hon. friends opposite (hear, hear and cheers). No doubt, they had offered criticisms—I must say in some cases very valuable criticisms. But, Sir, in offering those criticisms they had been uniformly dignified and generous (hear, hear). I am sure, Sir, that with an opposition like this it is a pleasure to deal (loud cheers). One more party, that is my own party, I cannot help thanking, I cannot help thanking them for the solid support they have been giving me since I began to deal with this question (hear, hear) without being in the least affected by the frowns or favours of the interested, they have been throughout uniformly kind and considerate and helped me with all the help they could (hear, hear).

“Sir, when the Bill was placed before the House, no doubt some of the clauses were objected to both in the Select Committee stage and later on; and mostly these criticisms were levelled against the constitution of the Board, the control of the Board over the maths, the contribution to be paid towards the cost of the establishment and lastly to the diversion of surplus funds. Sir, so far as the first point is concerned, it is not a new idea: the formation of Boards is not for the first time conceived. The idea is borrowed from the English Charity Commissioners. Nor have the previous Bills on the subject omitted to allow a place to these Boards. Most of them did provide for Boards.

“Then, Sir, as to the second of the objections, viz., the control over the maths; that control is indeed little; little, but, at the same time, effective to safeguard the future of these maths. I cannot understand, Sir, why that control should be objected to; it is intended in the interests of the maths themselves. Why should objection be taken to it? It is not the idea that the Board should control the heads of the maths in their spiritual activities. The control is in regard to the management of property attached to maths. If the property is not taken care of, where will the maths be? Math after math will begin to disappear and it is to avoid such a catastrophe that this control is contemplated.

“Then, Sir, as to the third of the objections, that is, regarding the contribution by the maths and excepted temples, I do say there is some force in the argument particularly in view of the fact that the levy of the stamp duty is insisted on. The Government ought to contribute towards the cost of the organization. That is a question for the consideration of the Government and I am not without hope that the Government will give their best attention to it. At the same time, Sir, it must be remembered by hon. Members that after all the Government, as Government, have to spend their time on the management of these maths. This means money, and therefore, it is no wonder if the stamp duty is insisted on and is levied by the Government. However, I do not plead that as an excuse to evade contribution. That question, as I have already stated, will be considered separately.

“As to the last of the objections, that is, the objection to the diversion of funds, it is not new. It was provided for in Sir Muttuswami Ayyar's

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Bill and in other Bills also. I cannot understand why the diversion should be objected to. In most of the temples this diversion has been allowed and in spite of it people have been making offerings to these temples. For instance, take the case of the Tirupati temple. In 1843 when the management of the temple was handed over to the trustee, there was a surplus, if my information is correct, of about 40 lakhs of rupees. That money was used for general education in the Presidency. Is not that a case of diversion? And in spite of it, do not people make their offerings to the temple? Why then take this objection now? That is a thing which I cannot understand, Sir. Until the Privy Council took objection, there have been two English schools maintained by the temple of Tirupati."

The DEPUTY PRESIDENT (in the Chair):—"May I respectfully point out that the time at the disposal of the hon. Member is very short? There may be other hon. Members who may wish to speak and we propose to close the proceedings at a quarter after four."

The hon. the RAJA OF PANAGAL:—"I have only one word to say, Sir; and it is to offer my most heartfelt thanks to you and our esteemed permanent President for the uniform courtesy shown to me in piloting this Bill. With these words I move that the Bill as amended be passed into law" (cheers).

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU:—"I second the motion, Sir."

Mr. R. SRINIVASA AYYANGAR:—"Mr. President, Sir, the hon. the Minister, in the course of his speech in winding up the debate, expressed a hope and asked this House to give its assent to the passing of this Bill. If I rise now, I only rise with a view to sound a dissenting or discordant note. It seems to me, Sir, that the object of the Bill is not likely to be achieved or advanced. The object set out in the Preamble of the Bill, is to provide for the better governance and administration of certain religious endowments. Within the short time at my disposal, I do not propose to enter into a detailed criticism of some of the provisions which appear to me to be really of an obnoxious character. The constitution of the Board, investing it with enormous and extensive powers, clothing it with an amount of finality, taking away the jurisdiction of civil courts, levying of court fees and placing the *matadhipatis* under secular control—all this, if I may say so, do really constitute the storm centres of this Bill, and we were anxious to steer this Bill off these storm centres. All these six days we have been putting up a fight very strenuously and very insistently. But excuse me, Sir, for saying that the steel frame not of the civil service but of the ministerial party withstood all the onslaughts, with the result that ours was practically a cry in the wilderness. The hon. the Minister paid us a compliment for some of our criticisms and he also stated that some of them were generous and charitable; but he was only paying us a left-handed compliment. If our criticisms were of a really useful and helpful character, I should have expected the hon. the Minister to evince that sympathy and consideration for us by accepting the remarks and the criticisms that we offered instead of refusing them with all his might and with all the forces at his disposal and coming at the fag end and telling us that our remarks were very generous and helpful.

"There is one other matter which I would like to emphasize. Hitherto we have been trying for the transference of power from the old bureaucracy.

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Now, after getting the power transferred from the old bureaucracy, there is a tendency on the part of some of us not only to retain that power and use it but also to trench on the domains of others. I refer to the creation of the Board and the ousting of the jurisdiction of the civil courts. When I go through the Bill, I notice a strong under-current of irritation and suspicion against the judiciary running through the Bill. Time and again, the hon. the Minister stated that he was anxious to minimize litigation. Much as I am inclined to agree with him in his laudable object to minimize litigation, at what cost does he attempt to achieve it? At the cost of depriving the rights and liberties of a large number of persons! No doubt they have been very busy all these days; but busy with what? Busy with forging a fresh and massive weapon which will in the fulness of time be placed on these *maths* and *matadhipatis*. It seems to me, Sir, that orthodox Hinduism is likely to suffer and that in the place of spiritualism which we regard as one of our valuable assets, materialism will step in and I, therefore, find myself unable to give my support to the passing of this Bill."

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—" Mr. President, Sir, having been connected with this Bill from the time when the hon. the Raja of Panagal constituted an informal committee to consider the provisions of a Bill to amend Act XX of 1863 and having been a member of a Devasthanam Committee for a number of years, I have, disagreeing with the former speaker, to say with all the emphasis at my command that this is a Bill which is intended for the better governance of religious endowments in this Presidency. Though I do not claim for myself and other people who are responsible for this measure that it is a perfect piece of legislation, I do think that we have made a good and magnificent start. I have no doubt that in the long run the religious endowments of this Presidency are sure to benefit by the legislation which we are ushering into existence to-day (hear, hear.). I may point out in this connexion that for more than half a century, ever since the Act of 1863 was passed, endeavours had been made for putting our religious endowments on a better footing, for making impotent committees exercise some real power and for checking mal-administration of every kind with some sort of rule and discipline. But every time when an attempt was made to have such legislation introduced, it was unfortunate that either sentiment or reason or both in the country prevented the fulfilment of the desires of those who wanted to legislate on this matter. I must congratulate the hon. the Raja of Panagal on the courage and persistence with which he has piloted this Bill. He has made us realize in this first Reformed Council that we can set right a crying evil, an evil which was crying for redress for more than half a century. I do not for a moment say that there are not in this Bill, provisions, raising controversial points which are likely to be objected to by vested interests. In the first place this is the first piece of Indian legislation in which the *maths* and *matadhipatis* are made to realize that the properties vested in them are trust properties and that they must be regulated by all rules relating to the administration of trusts. It is also the first piece of legislation in which temples which were never before controlled by any committee are brought now under control of some sort. *Maths* and *matadhipatis* and excepted temples, as they are termed in this Bill, have, however, been accorded privileged treatment and it is because they had to be accorded a privileged treatment that the Select Committee thought of introducing an agency called the Board of Commissioners. This agency

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again is likely to be objected to as a costly and unnecessary one. But the alternative that we had to face was that of having suits instituted by all and sundry supposed to be interested in the endowment or claiming to be disciples of *maths*. That is how, between the two alternatives, the Select Committee chose the Board of Commissioners as a body of individuals who could supervise these endowments with the minimum amount of interference. I do not want to proceed to discuss all the various points connected with the reforms introduced by this Bill. Suffice it to say that on a fair and dispassionate consideration of the past, the present, and the future, this Bill is likely to be of very great use in the administration of the religious endowments of this Presidency."

Rao Sahib U. RAMA RAO:—"Sir, I feel I owe it to myself, to my constituency and to the public at large, who are watching
 4 p.m. with deep concern the hurry and haste with which this legislation is rushed through in this House even without obtaining the formal sanction of the Government of India to the alterations made in the Select Committee stage, to oppose the Third and Final Reading of this Bill. No legislation in recent times has evoked such universal disapproval, and yet, no Bill has been rushed through in such hot haste, in the teeth of such opposition, save the Rowlatt Bill. The Rowlatt Bill at least was intended to stifle the civic liberty of the citizen, but this Bill affects the very fundamentals of the Hindu religion. It is a direct negation of the solemn pledges given by Her Majesty Queen Victoria of revered memory, assuring full liberty in all matters pertaining to religion. What the white bureaucracy dared not do during all these years of British rule in this country, a ministry which was not elected on this issue—a ministry that has by its actions and words since its advent into power and by force of circumstances forfeited its right to represent a not inconsiderable and important section of the community—has dared to legislate upon in the teeth of the universal protest of that community both inside and outside of this House. There is, I admit, need for some reform in the matter of the administration of the religious endowments in this province; but, where angels feared to tread, any ministry should have thought it fit to proceed only with considerable care and caution. But in spite of the incontrovertible fact that the provisions contained in this Bill are of a far reaching character, and despite the fact that protests had been raised by all sections of Hindus, including a very large section of the non-Brahman community itself, whom the ministry professes to represent this Bill, has been rushed through with the aid of a pliable non-Brahman majority in this House who were not at all elected on this issue, and with the aid of Muhammadans and Europeans whose position was not in the least affected by the provisions of this Bill. It would have been far more graceful on the part of the Muhammadans and the Europeans if they had remained neutral on this matter and allowed the non-Brahman majority in this House to take on its own shoulders the full responsibility for this abnoxious piece of legislation. Did they for a moment contemplate what would have been their own feelings if, in any matter vitally affecting their religious sentiments, any other community, numerically strong in this House had dared to legislate in spite of their vehement opposition? Even the attempts made by some Members of the Council, including my humble self, as representing a particular section of the people, to postpone the consideration of the Bill, to a time three months hence, so as to give an opportunity to the large section of the public outside

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the House to consider deeply and express their views on the Bill in the form in which it has emerged from the Select Committee, have been frustrated. Every amendment moved on this side of the House to make the Bill less obnoxious met with a similar fate, not because of its inherent weakness but because of the numerical pride on the ministerial side whose Members had already made up their minds on this question. What further proofs are needed to substantiate this statement than the very fact of the indifference displayed by the Members on the other side of the House to this important and far-reaching legislation of a highly controversial character, and the thin House in which this legislation was rushed through? That both the halves of the Government were not unanimous on some of the provisions of this Bill, is well borne out by the fact that the hon. the Law Member chose to remain neutral when the question of the Chidambaram temple was decided, and there has been another instance also when even a Government Member chose to keep away from the Council when the important question of the creation of a Board was finally decided upon. Even the motion for the exclusion of Brahman maths—about which there had absolutely been no complaint of mal-administration all these years—which was strongly pressed on the attention of the House, was defeated; and we are going to have a Central Board or Boards to have sway over the religious endowments of whatever denomination they may be. Of course, this creates a new field of pasture for some people influential with the ministry to get billets; but how far the Board or the Boards are going to serve the purpose for which they are constituted is in the laps of the gods."

Rao Bahadur O. TANIKACHALA CHETTIYAR:—"Sir, Mr. President, I beg to associate myself with the remarks of my hon. friend, Sir T. Desika Achariyar, and beg to offer my congratulations to the hon. the Raja of Panagal for the courage and persistence with which he brought forward this Bill which has been in the making for over 50 years. Not merely high-souled Englishmen like H. E. Sullivan, P. O'Sullivan, W. Robinson and D. F. Carmichael, distinguished names in the administration of this Presidency, but also great administrators belonging to the section on the opposite side, namely, men of the type of V. Rama Ayyangar, P. Srinivasa Rao, P. Chentsal Rao, V. Krishnamachariyar, T. Rama Rao, Sir T. Muttaswami Ayyar, R. Raghunatha Rao, Sir Subramanya Ayyar, Sir V. Bashyam Ayyangar, and last but not least R. Srinivasa Raghava Ayyangar, and men of the type to which we on this side of the House have the honour to belong, men like P. Somasundaram Chetti, P. T. Ramanjulu Nayudu, T. V. Ponnuswami Pillai, Sir C. Sankaran Nayar, P. Ranganatham and P. Rajaratna Mudaliyar had all attempted to bring Bills from time to time on the basis of which the present Bill has been built. Sir, all glory and honour to the Minister who has had the courage to bring to completion and fruition the labours of distinguished men of our country, including foreign administrators like those whose names I have mentioned. Sir, this Bill, or rather the idea of this Bill, which is contained in the several schemes or drafts which have been published and which have been considered by Government had been shelved solely on the cry raised by men of the type of my hon. friend, Rao Sahib Rama Rao, that religion was in danger. The Central Government would not give authority to the Local Government to place this measure before the public on account of cries of this kind. It has been reserved for the Reformed Government, the first Reformed Government,

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and the first Minister of the Reformed Government in the Presidency of Madras, and the first Minister of the first Ministry to have the courage to frame this Bill and bring it before the House for its acceptance. No doubt, Sir, many are the curses which have been imprecated upon his head. But soon will arise a generation which will bless him for the good that he has wrought for the many millions of this Presidency; for, in our superstitious belief we contribute large sums for religious purposes. But those who receive, some of them at any rate, quite forgetful of the purposes for which they were given, have been misappropriating them so that all administrators thought it fit in the schemes they proposed to have this Board of Commissioners. It is not new to the present Minister. It is as old as fifty years. They proposed even in those days of cheap living a chairman of the Board of Commissioners on a salary of Rs. 1,250, Rs. 50 in excess of what you propose in these dear days, and three Commissioners on Rs. 1,000 each as against Rs. 800 proposed in this Bill. They had proposed, besides these Commissioners and Chairman, a Secretary on Rs. 600, two Inspectors on Rs. 250, two Inspectors on Rs. 400 and one Inspector on Rs. 500. So, the scheme for completely organizing the scrutiny of accounts of these religious institutions is as old as fifty years. Then, in one of their minutes forwarding the resolution to the Government they say that if more funds are required for running such an agency, the end justifies the means. Sir, it has been said in the course of the opposition to this Bill, and particularly to this chapter on the Board of Commissioners, that Mr. Raghunatha Rao was against it."

Mr. C. V. VENKATARAMANA AYYANGAR:—"He was against payment."

Rao Bahadur O. TANIKACHALA CHETTIYAR:—"I shall now show by reference to a passage here that he was in favour of it. He had the idea like some of our conservative Members that all persuasions and shades of religious belief ought to be represented in the Board of Commissioners, and he suggested that as many as sixteen might be appointed. Then he says:

If my scheme is approved, it is neither desirable nor justifiable to pay a chairman and the commissioners a salary of Rs. 1,250 and Rs. 1,000 each respectively.' He was in perfect agreement to pay, and he was one of those who made the statement that

the end of bringing all this under proper accounting justified the means of levying a toll on their collections; but in the scheme of sixteen commissioners it is unthinkable to pay for them.

He made the statement only with this reservation, and I think I ought not to allow the remark which has been very freely made that Raghunatha Rao was against payment to go unchallenged.

"One other thing I wish to point out. It is very often said that we are trying to create all this organization to put religious institutions and maths under restraint. From my experience as a lawyer I am aware that, when suits are instituted for schemes, at the beginning people are very much averse to such suits; they think that temple funds are being wasted on litigation. The same people who have said it have, after seeing the working of the temples under the schemes and the correct accounts that are kept which in no small measure contribute to the success of the management, proclaimed that it is a blessing in disguise. Sir, with these words I close. The hon. the Raja of Panagal has earned the gratitude of posterity by the way in which he has introduced the Bill and the courage with which he has piloted it through."

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Rai Bahadur T. M. NARASIMHACHARLU :—“ Mr. President, Sir, I am very sorry that I cannot agree to the passing of this Bill. Nobody ever suggested at any time that no improvement was necessary to the Act of 1863 ; but the present achievement, Sir, is very disappointing indeed. Anyhow, the struggle is over. Those on the other side are no doubt heaving a sigh of relief. But we on this side are also heaving a sigh ; but it is a sigh of despair and helplessness. If the other side claims the glory of success we have no less a glory in our defeat. For, did we flinch at any time? Did we withdraw our important amendments? Did we yield or surrender against the overwhelming odds? They fought with the weight of numbers on their side; but we, Sir, I claim, fought with the weapons of reason and conscience (hear, hear). Against the weight of numbers reason and conscience could not be successful. Anyhow, Sir, our defeat was no less glorious than the defeat of those three hundred Spartans at the pass of Thermopylæ. We never surrendered nor retreated, like some of our police about whom we have heard, against overwhelming numbers. Anyhow, as I said, the struggle is over. The net achievement of this legislation was undue haste.

“ Secondly, Sir, there was the policy of divide and rule evident in the career of this Bill. For, what reason was there for excluding the Muhammadan religious endowments from this Bill? It was because, as I apprehend, if they were also included, the Muhammadans would have formed part of ourselves here to oppose the Bill tooth and nail.

“ Thirdly, Sir, as regards the maths and temples which were under the management of hereditary trustees from the year 1842, the maths are now sought to be controlled by the Boards, and the temples by Committees. Well, what shall I say to this? The hon. the Minister says ‘ what if some little control is placed over them? Why are you sorry? In your interests we have done it.’ That, Sir, is the very thing that Europeans are saying to us: ‘ We are necessary for you; you cannot get on without our protection; you cannot progress.’ But to all those who are accustomed to independence, liberty and freedom, I say, Sir, the smallest control is the heaviest burden that can be placed on them. Similarly, the maths were enjoying the greatest freedom till now. They were never controlled by any outside body. But they and the temples are now sought to be brought under the Board. In doing this you are aiming at the liberty and democracy of those bodies. On the whole, Sir, there is the question of religious neutrality which has been brought into this.

“ Lastly, Sir, there is this question of the taking away of the powers from the courts and vesting them in the executive which is opposed to all constitutional laws.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“ I should like to make one or two observations at this stage of our discussion. I regret to say that I am not in a position to assent to this motion. My hon. friend, the hon. the Raja of Panagal, said that the poisonous gases raised by our agitation had asphyxiated the judgment of this House, and he congratulated himself—and, I take it, his friends in this House—for having escaped from the effects of those gases. So far as we are concerned we kept our heads cool and offered such criticisms as we thought necessary and right to discharge our function as the Opposition in this Council; and I am glad to note that my hon. friend the Minister has made a graceful reference to our position

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as the Opposition and to the value of our suggestions regarding this Bill. Sir, we are glad that they have realized the value of an Opposition
 4-15 p.m. and I trust that in this Council, whatever may be the present state of our party discipline and party feeling, it is true that a powerful and parliamentary Opposition can be developed in course of time.

"Having said this, I regret to say that the difference between ourselves and the other party is fundamental. We differ from the Minister; and the differences are to be seen not only to-day but throughout all the drafts which were framed from 1878 up to this day. We have differed from him in four or five fundamental respects and these differences are still there in the Bill, and when the differences are fundamental, I regret to say that we cannot assent to the Bill. The differences have been enumerated by my hon. friend, and no good purpose will be served at this late stage of our discussion in our re-examining the position and trying to again convince my hon. friend, the Minister, who will not be convinced, on all the points on which he differs from us. As I say, no purpose will be served by a re-examination of the fundamental principles on which the Bill is based. We have differed and we continue to do so. We tried our best to get the modifications that we desired made in the Bill; and if the hon. the Minister has not seen eye to eye with us, the working of this measure will show whether we are right or they.

"Therefore, all that I can say is this. My hon. friend referred to the fact that the Board of Commissioners was modelled on the English Charity Commissioners. If we examine the question more closely, there is absolutely no doubt that the constitution of the English Charity Commissioners is entirely different in several fundamental respects from the constitution of the Board under the present Bill. I do not wish to dilate on this matter at length. As I said, the differences are so fundamental that I cannot assent to the motion which my hon. friend the Minister has made for the final passing of this measure. It may be that some of the provisions have been relaxed. But as I have pointed out in my dissenting minute there are yet many provisions that are quite unacceptable. No doubt, as to the provisions relating to the furnishing of accounts, registration of properties of the various religious endowments and various other matters in which control has been provided, there is no difference between us. But the fundamental features of the Bill have not been altered either in the Select Committee stage or now. I want to say finally that the Bill as it was originally introduced was entirely different from that which has emerged from the Select Committee, and in some very serious respects I think that the Bill, as it is now being passed, is much worse than the Bill which has passed the Select Committee. I regret very much that I am not at all in a position to give my assent to the motion that the Bill be passed into law."

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I was one of those that congratulated the hon. the Minister for having introduced the Bill, though I was on this side of this House. I am one of those again who will be glad to congratulate him on the fact that he has passed it through. I should specially congratulate him for the sporting words with which he concluded his last speech that after having fought over the question we have all come to a stage where we can shake hands with each other. I would be glad if he had been sporting enough equally as regards the objections raised by the outside public. So far as the objections from the public are concerned,

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I think that many of them have come from sincere people who think that the Bill is obnoxious. As I said, Sir, we have fought over the Bill; I was one of those that agreed with the Government on some points though I strongly contested some others. But we have come to a certain stage when we must say that the Bill is an accepted fact. There is no use in quarrelling over what might have been and must have been. The Bill has been passed clause by clause and I should congratulate not only the Minister but the House also for having brought to this stage a Bill which has been contested for several years. I venture to think, Sir, that if only sufficient time had been given to the House and to the public for considering the questions involved in the measure, the very same provisions might have been probably deemed to be satisfactory.

"One or two words, Sir, as to what might be done even now. The Government have carried the Bill through. They have got some powers now whereby they can please the public so far as some objections are concerned, and the hon. the Minister has to-day given us some hope that he will be able to get some money from the Government for this department. If he gets, the burden of paying the Board of Commissioners will go and the objection will be considerably lessened. One objection against the Board of Commissioners is chiefly based on the fact that the maths are taxed for the purpose. If there is no such provision for payment the objection on that score will disappear. It lies in the hands of the hon. the Minister to reduce the force of the objection by trying to see that the money required for paying them comes out of the general exchequer. With these words I once more congratulate the hon. the Minister for the measure that he has successfully introduced."

Rao Bahadur C. NATESA MUDALIYAR :—"Sir, Mr. President, I thank you very much for having allowed me to speak. I will only say: 'Bravo! Raja of Panagal!!' (loud cheers). The whole Presidency was seething with rage; our religion was thought to be interfered with; our maths were supposed to be insulted; our temples were imagined to be plundered; and the wrath of the gods of Heaven was invoked upon the hon. Minister's head. Questions intricate and puzzling were put to him; but they were replied with learned ease. Over six hundred amendments were gone through in this House successfully, thanks to our party whips; and the solidarity of our party has been proved beyond doubt. Our religion is established, established firmly, more firmly and more soundly than before on account of this Bill. I hope the Government will use the power vested in them to satisfy the various sects of Hindu religion and ease the misgivings if there are any. I hope the heads of maths and trustees of temples will use at least a portion of their surplus amount to elevate and enlighten the depressed classes in general. Sir, it is there that the democracy of religion lies, it is there that we should seek to strengthen our community."

"Sir, coming to the Board of Commissioners, I request the Government to bear in mind that there are three great religious orders, Vaishnavism, Saivism, and Smarthaism and I request the Government to give representation to all these."

"Before I sit down, Sir, I wish to express my hearty congratulations to the hon. the Minister."

The hon. the RAJA OF PANAGAL :—"Sir, I wish to bring only one matter to the notice of the House. That is, in piloting this Bill, I had but one

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to motto before me. I wanted not to forsake God for the sake of man. If in that attempt I have offended any, I crave their pardon; and those who have accepted the Bill in its present form, I thank" (applause).

Mr. A. RAMASWAMI MUDALIYAR :—" I move that the question be now put."

The closure was put and carried.

The motion that the Bill be passed into law was then put and carried.

IV

HIS EXCELLENCY THE GOVERNOR'S ADDRESS TO THE COUNCIL BEFORE PROROGATION.

HIS EXCELLENCY THE GOVERNOR :—" Mr. Deputy President, and hon.

4-30 p.m.

Members of the Legislative Council, as this is the last day of the third ordinary session of the Council, I think it is fitting that, before declaring the session at an end, I should invite the Council to make with me a brief review of the road we set ourselves to travel during the past two years and the extent of the progress we have made thereon.

"When opening the first session of this Council on the 14th of February 1921, I gave a brief sketch of the legislation we had then in contemplation. In the first place, I referred to the great legislative output of the year 1920, especially in matters relating to local self-government, and mentioned that it was probable that some time would be taken in ensuring the satisfactory working of the new Acts which had just been brought into force. I was a truer prophet than I thought, for I fear that the introduction of the satisfactory working of these Acts has imposed a far greater burden than most of us realize upon my hon. colleague, the First Minister, who has already carried through the Council in the course of two years no less than seven amending measures, and has two more awaiting introduction. Of the further measures contemplated in his Department the proposed Housing Bill has never taken shape, but we have introduced in its place the Madras City Tenants' Protection Act passed in 1921.

"We have also passed into law the Madras Cattle Diseases Amendment Act, the Survey Act, the Port Trust Amendment Act and ten miscellaneous Acts of minor importance, and the very important Bill dealing with Hindu Religious Endowments has now been added to the list. In addition to these, my hon. colleagues, the Second and Third Ministers, have devised and carried the very important Acts dealing with State Aid to Industries and the University.

"So much for what we have done, and I think I may say in passing that it is no mean list of legislative achievement for a new Council in the first two years of its existence. Now, as regards what we have left undone. We have been unable, for reasons of which the Council are well aware, to make any progress with the Madras Revenue Settlement Bill. We have prepared and have ready a Bill to deal with the vexed question of landlord and tenant but the experience of other provinces in this matter and the very large amount of legislation that we have had in hand during the last session have deterred us from introducing it until we have tested it from every point of view and have time for a thorough discussion of it in the Council.

"Further we have failed, through the action of the Council, to make any progress with another Bill of equal importance, namely, that relating to the